AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

9-19-89
Vol. 54 No. 180

federal register

Tuesday
September 19, 1989

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

9-19-89
Vol. 54 No. 180
Pages 38507-38642

federal register

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September 19, 1989

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

ATLANTA, GA

WHEN: September 20; at 9:00 a.m.
WHERE: Room 808, 75 Spring Street, SW.
Richard B. Russell Federal Building
Atlanta, GA
RESERVATIONS: Call the Federal Information Center
404–331–6895

WASHINGTON, DC

WHEN: September 25; at 9:00 a.m.
WHERE: Office of the Federal Register
First Floor Conference Room
1100 L Street NW., Washington, DC
RESERVATIONS: 202–523–5240

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 310

[RIN 3064-AA91]

Privacy Act Regulations

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: The FDIC hereby exempts from certain provisions of its regulations implementing the Privacy Act of 1974 its proposed new Investigative Files and Records system.

DATE: Effective October 19, 1989.

FOR FURTHER INFORMATION CONTACT: Robert E. Feldman, Deputy Executive Secretary, FDIC, 550–17th Street, NW., Washington, DC 20429, telephone (202) 898–3811.

SUPPLEMENTARY INFORMATION: Elsewhere in today's issue of the **Federal Register**, the FDIC is establishing a new system of records under the Privacy Act of 1974. The system, entitled Investigative Files and Records system, will contain files on employees of the FDIC or other persons involved in the FDIC's programs or operations who are or have been under investigation by the FDIC's Office of Inspector General where fraud or abuse has been suspected.

Pursuant to subsections (k)(2) and (k)(5), respectively, of the Privacy Act (5 U.S.C. 552a(k)(2), (k)(5)), the FDIC is exempting from the provisions of §§ 310.3 through 310.9 and § 310.10(d)(2) of its regulations (12 CFR 310.3–310.9 and 310.10(d)(2)) the following: (1) Investigatory material compiled for law enforcement purposes; provided, however, that if any individual is denied any right, privilege or benefit to which he/she would otherwise be entitled under Federal law, or for which he/she would otherwise be eligible, as a result of the maintenance of such material, such material shall be disclosed to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence; and (2) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Corporation employment to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Corporation under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. As a result, an individual who is the subject of a record contained in the system will generally not have access to the type of material described above or be able to request an amendment to any such record.

Notice of the exemptions in the form of a proposed rule was published in the **Federal Register** on June 13, 1989 (54 FR 25126), for a 60-day comment period. No comments were received on either the proposed rulemaking or the proposal to establish the system. Accordingly, the Board of Directors of the FDIC adopts the rule as proposed without change.

As the amendments neither alter any existing nor create any new record-keeping or reporting requirements, the Paperwork Reduction Act is inapplicable. The Board of Directors of the FDIC hereby certifies that the rule will not have a significant impact on a substantial number of small entities, as it simply implements an exemptive provision of the Privacy Act, which applies to records about individuals. Therefore, the provisions of the Regulatory Flexibility Act are inapplicable.

List of Subjects in 12 CFR part 310

Federal Deposit Insurance Corporation, Privacy.

For the foregoing reasons, 12 CFR part 310 is amended to read as follows:

1. The authority citation for part 310 continues to read as follows:

Authority: 5 U.S.C. 552a.

2. Section 310.13 is amended by revising paragraphs (a) and (b) thereof to read as follows:

§ 310.13 Exemptions.

(a) Investigatory material compiled for law enforcement purposes in the following systems of records is exempt from §§ 310.3 through 310.9 and § 310.10(d)(2) of these rules; *Provided, however,* That if any individual is denied any right, privilege, or benefit to which he/she would otherwise be entitled under Federal law, or for which he/she would otherwise be eligible, as a result of the maintenance of such material, such material shall be disclosed to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence:

"30–64–0002"—Financial institutions investigative and enforcement records system.

"30–64–0010"—Investigative files and records.

(b) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Corporation employment to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Corporation under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, in the following systems of records, is exempt from §§ 310.3 through 310.9 and § 310.10(d)(2) of these rules:

"30–64–0001"—Attorney-legal intern applicant system.

"30–64–0010"—Investigative files and records.

* * * * *

By direction of the Board of Directors.

Dated at Washington, DC, this 12th day of September 1989.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 89-22034 Filed 9-18-89; 8:45 am]
BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-ASW-32; Amdt. 39-6324]

Airworthiness Directives; McDonnell Douglas Helicopter Company (MDHC) Model 369D and E Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires removal and inspection of the hubs of four-bladed tail rotors to determine if any cracks or evidence of electrical arc burns are present, and replacement of defective hubs, if found, on MDHC Model 369D and E helicopters. The AD is needed to prevent fatigue failure of the hub which could result in loss of control of the helicopter.

DATES:

Effective Date: October 16, 1989.

Compliance Date: As indicated in the body of the AD.

ADDRESSES: The applicable service information notices may be obtained from MDHC Technical Publications, Building 543/D214, McDonnell Douglas Helicopter Company, 5000 E. McDowell Road, Mesa, Arizona 85205-9797; telephone (602) 891-6484, or may be examined in the Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, Room 158, Building 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Sol Davis, Aerospace Engineer, Airframe Branch, ANM-123L, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5233.

SUPPLEMENTARY INFORMATION: The FAA has determined that manufacturing defects have been found in a hub lot of 56 units, serial numbers 196 through 251. These defects included manufacturing cracks and evidence of electrical arc burns which could lead to fatigue cracks. Since this condition is likely to exist or develop on other helicopters of the same type design, an AD is being issued which requires removal and inspection by dye penetrant and visual means of the hubs in the affected lot within 10 hours' time in service; inspection of all other hubs within 100 hours' time in service; and inspection of hubs from spares inventory, prior to installation in a helicopter, to determine if any manufacturing defects are present; removal of hubs from service if such defects are found; and replacement with serviceable hubs on MDHC Model 369D and E helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation would be significant under DOT regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—AIRWORTHINESS DIRECTIVES

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of 14 CFR part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

McDonnell Douglas Helicopter Company (MDHC): Applies to Model 369D and E helicopters, certificated in any category, with hubs of four-bladed tail rotors, Part Number (P/N) 369D21700-3 installed.

Compliance is required as indicated, unless already accomplished.

To prevent fatigue failure of four-bladed tail rotor hubs which could result in loss of control of the helicopter, accomplish the following:

(a) Within 10 hours' time in service after the effective date of this AD, remove each tail rotor hub, (P/N) 369D21700-3, with serial numbers 196 through 251, installed on a helicopter and visually inspect for electrical arc burns and dye penetrant inspect for cracks. If arcing burns or cracks are observed as a result of this inspection, replace the hub with a serviceable unit prior to further flight.

Note: McDonnell Douglas Helicopter Company Service Information Notices DN-160 and EN-50 pertain to this inspection.

(b) Within 100 hours' time in service after the effective date of this AD, remove each tail rotor hub, (P/N) 369D21700-3, with serial numbers from 1 through 195, and visually inspect for electrical arc burns and dye penetrant inspect for cracks. If arc burns or cracks are observed as a result of this inspection, replace the hub with a serviceable unit prior to further flight.

(c) Prior to installation in a helicopter, visually inspect each four-bladed tail rotor hub, (P/N) 369D21700-3, serial numbers 1 through 251, in spares inventory for electrical arc burns and dye penetrant inspect for cracks. If arc burns or cracks are observed as a result of this inspection, reject the hub.

(d) Enter the results of the above inspections required by paragraphs (a) and (b) in the aircraft log and report cracks or arc burns to the Los Angeles FAA Aircraft Certification Office within 10 days of the inspection. Include in the report the helicopter model and serial number, hub part number, hub serial number, vendor identification (if possible), total hours of service for the hub, the location of any cracks and arc burns, and the geographical location (city, state) of the helicopter at the time of inspection.

(e) Report the results of the inspections of paragraph (c) on hub spares, when arc burns or cracks are found, to the Los Angeles FAA Aircraft Certification Office within 10 days of the inspection. Include the date of the inspection, hub part number, hub serial number, vendor identification (if possible), total hours in service (if previously used, or zero hours if new), the location of arc burns and/or cracks, and the geographical location of the inspection.

Note: All new hubs (zero service life) which are rejected should be returned to MDHC for further inspection and evaluation.

(f) The reporting requirements of this regulation have been approved by the Office of Management and Budget under OMB control number 2120-0056.

(g) In accordance with FAR 21.197 and 21.199, the helicopter may be flown to a base where compliance with the AD may be accomplished.

(h) An alternate method of compliance with this AD which provides an equivalent level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office, FAA, 3229 E. Spring Street, Long Beach, California.

This amendment becomes effective October 16, 1989.

Issued in Fort Worth, Texas, on September 6, 1989.

James D. Erickson,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 89-22043 Filed 9-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ASO-9]

Alteration of VOR Federal Airway V-578; GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of VOR Federal Airway V-578 from Alma, GA, to Savannah, GA, by extending that airway from Alma via a south dogleg. A recent survey of the traffic in that area indicates a need for controlled airspace between Alma and Savannah. This action aids flight planning and reduces controller workload.

EFFECTIVE DATE: 0901 u.t.c. November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On March 28, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of VOR Federal Airway V-578 by extending that airway from Alma, Ga, to Savannah, GA, via a south dogleg (54 FR 12646). A recent traffic survey indicated that an east/west airway is necessary due to the increased traffic in the Savannah area. The minimum en route altitude on this segment of V-578 would be 6,000 feet mean sea level (MSL) because of an underlying restricted area that has an altitude of up to and including 5,000 feet MSL. This action improves flight planning and reduces controller workload. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Comments objecting to the proposal were received from the following:

The Georgia Air National Guard was concerned that the airway would adversely impact Restricted Area R-3007A Townsend, GA; the Quick Thrust Military Operations Area (MOA); and the Gator Low MOA.

Restricted Area R-3007A, located in the vicinity of Townsend, GA, has a time of use of Monday through Friday, 0800 to 1700 local time and assigned altitudes of 1,500 feet above ground level (AGL) to 5,000 feet MSL. The FAA, through the Jacksonville, FL, Air Route Traffic Control Center (ARTCC), is the controlling agency. This restricted area has been assigned to the Savannah, GA, Air National Guard. The activities conducted within R-3007A consist of an average of 20 flights a day involving air-to-ground inert practice bomb and rocket missions. The Quick Thrust MOA has assigned altitudes of up to 5,000 feet MSL. The proposed airway has a minimum en route altitude (MEA) of 6,000 feet and a designated ceiling of 13,000 feet MSL. The Gator Low MOA, controlled by Jacksonville, FL, ARTCC, has a floor of 14,000 feet MSL and extends to but does not include 18,000 feet MSL. Therefore, the proposed airway realignment does not impact Restricted Area R-3007A, Quick Thrust MOA or Gator Low MOA.

The Department of the Navy objected based on the airway's impact on R-3007A and the Gator Low MOA. As stated above, the airway does not impact either area.

The Department of the Air Force objected to the airway's effect on the proposed Department of Defense (DOD) Joint Service Southeast Teactical Range and the Quick Thrust MOA. The proposed airway does not conflict with Quick Thrust MOA and the Southern Region Office has not received a proposal for a DOD Joint Services Southeast Tactical Range. The FAA does not find it appropriate to base its decision on a proposal not yet submitted for consideration. Therefore, the FAA is proceeding to alter the description of V-578 between Alma, GA, and Savannah, GA. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of part 71 of the Federal Aviation Regulations is republished in Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the description of VOR Federal Airway V-578 by extending that airway from Alma, GA, to Savannah, GA, via a south dogleg. A recent traffic survey indicated that an east/west airway is necessary due to the increased traffic in the Savannah area. The MEA on this segment of V-578 is 6,000 feet MSL due to an underlying restricted area that has assigned altitudes of up to and including 5,000 feet MSL. This action improves flight planning and reduces controller workload.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the critiera of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-578 [Amended]

By removing the words "to Alma, GA." and by substituting the words "Alma, GA; INT Alma 072° and Savannah, GA, 210° radials; to Savannah."

Issued in Washington, DC on September 6, 1989.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-22046 Filed 9-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-AWA-2]

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several VOR Federal Airways located in the Detroit metropolitan area. These airway changes are the result of the reorganization of the Detroit metropolitan air traffic control tower's (ATCT) and Cleveland air route traffic control center's (ARTCC) airspace. The traffic growth at the Detroit Metropolitan Airport and the intermix with Chicago area traffic mandates these changes at this time. This action improves traffic flow in the area and reduces controller workload.

EFFECTIVE DATE: 0901 u.t.c., November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On March 3, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter 15 airways located in the Detroit, MI, area (54 FR 9061). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, and changes to V-6, V-30, V-126, V-11, V-45, and V-98 to eliminate some arrival/departure problems, this amendment is the same as that proposed in the notice. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the descriptions of 15 airways located in the Detroit, MI, area. The Detroit metropolitan air traffic airspace area is being reorganized. The traffic growth at the Detroit Metropolitan Airport has been increasing each year and this growth is forecasted to continue. The descriptions of V-6, V-30, V-126, V-11, V-45, and V-98 have been changed to improve the flow of the traffic in the Detroit area. This action will provide airways for departures and arrivals to the Detroit Metropolitan Airport, Wayne County Airport, and the satellite airports.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-2 [Amended]

By removing the words "INT Salem 083° and Aylmer, ON, Canada, 260° radials;" and substituting the words "INT Salem 093° and Aylmer, ON, Canada, 254° radials;"

V-6 [Amended]

By removing the words "Waterville; DRYER, OH;" and substituting the words "Waterville, OH; Sandusky, OH; DRYER, OH;"

V-30 [Amended]

By removing the words "Waterville, OH; DRYER, OH;" and substituting the words "Waterville, OH; Sandusky, OH; DRYER, OH;"

V-126 [Amended)

By removing the words "Waterville, OH; DRYER, OH;" and substituting the words "Waterville, OH; Sandusky, OH; DRYER, OH;"

V-10 [Amended]

By removing the words "Litchfield, MI; Carleton, MI;" and substituting the words "Litchfield, MI; INT Litchfield 101° and Carleton, MI, 262° radials; Carleton;"

V-11 [Amended]

By removing the words "Salem, MI; 6 miles wide to INT Salem 052° and Windsor, ON, Canada, 335° radials." and substituting the words "to INT Fort Wayne 038° and Carleton, MI, 262° radials."

V-26 [Amended]

By removing the words "INT Salem 139° and DRYER, OH, 309° radials;" and substituting the words "INT Salem 140° and DRYER, OH, 305° radials;"

V-42 [Revised]

From Waterville, OH; INT Waterville 084° and Akron, OH, 297° radials; INT Akron 297° and Youngstown, OH, 272° radials; Youngstown.

V-45 [Amended]

By removing the words "From Youngstown, OH, INT Youngstown 272° and Akron, OH, 298° radials; INT Akron 298° and Waterville, OH, 085° radials; Waterville; Jackson, MI;" and substituting the words "From Appleton, INT Appleton 329° and Waterville, OH, 148° radials; Waterville; INT Waterville 306° and Jackson, MI, 166° radials; Jackson, MI;"

V-75 [Amended]

By removing the words "DRYER, OH." and substituting the words "DRYER, OH; to INT DRYER 321° and Salem, MI, 130° radials."

V-90 [Amended]

By removing the words "From Windsor ON, Canada, via INT Windsor 083° and Dunkirk, NY, 266° radials; Dunkirk." and substituting the words "From Windsor, ON, Canada; INT Windsor 092° and Dunkirk, NY, 262° radials; Dunkirk."

V-96 [Amended]

By removing the words "Waterville; Windsor, ON, Canada, excluding the portion within Canada." and substituting the words "Waterville."

V-98 [Amended]

By removing the words "From Carleton, MI; Windsor, ON, Canada.;" and substituting the words "From Dayton, OH; INT Dayton 358° and Carleton, MI, 243° radials; to INT Carleton 243° and Waterville, OH, 321° radials. From Windsor, ON, Canada;"

V-100 [Amended]

By removing the words "Litchfield, MI; INT Litchfield 104° and Carleton, MI, 258° radials; Carleton." and substituting the words "to Litchfield, MI."

V-163 [Amended]

By removing the words "INT Akron 312° and Windsor, ON, Canada, 134° radials; INT Windsor 134° and Salem, MI, 117° radials; Salem; INT Salem 308° and Lansing, MI 103° radials; to Lansing." and substituting the words "INT Akron 319° and Windsor, ON, Canada, 125° radials; Windsor; INT Windsor 292° and Lansing, MI, 091° radials; to Lansing."

Issued in Washington, DC, on August 30, 1989.

Harold W. Becker

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-22044 Filed 9-18-89; 8:45am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-AGL-9]

Alteration of VOR Federal Airway, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of VOR Federal Airway V-24 located in the state of Illinois. This airway has been extended from the Chicago metropolitan area to Indianapolis in order to simplify routing.

EFFECTIVE DATE: 0901 u.t.c. November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Jesse B. Bogan, Jr., Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:

History

On May 24, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the description of VOR Federal Airway V-24 in the state of Illinois (54 FR 22447). The amendment of the airway simplifies the routing of air traffic from the Chicago metropolitan area to Indianapolis. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The Air Transport Association Central Regional Office wrote to express their support of the amendment. They stated that the amendment will improve the flow of air traffic, reduce congestion, and provide additional safety. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the description of VOR Federal Airway V-24 located in the state of Illinois. The airway is extended to simplify routing of air traffic from the Chicago metropolitan area to Indianapolis.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-24 [Amended]

By adding to the end of the description the words "From Peotone, IL; INT Peotone 152° and Indianapolis, IN, 312° radials; to Indianapolis."

Issued in Washington, DC, on September 7, 1989.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-22045 Filed 9-18-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 89-ASW-17]

Revision of Restricted Areas R-5601A, B, C, D, and E Fort Sill, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters Restricted Areas R-5601A, B, C, D, and E in the vicinity of Fort Sill, OK. This action is taken to provide for efficient management of the airspace by more accurately reflecting the using agency's requirements and allowing for greater flexibility for both military and civilian users of the airspace. This action is the result of an FAA utilization review of these restricted areas.

EFFECTIVE DATE: 0901 u.t.c., November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Rich Urich, Military Operations Branch (ATO-140), Operations Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-7635.

SUPPLEMENTARY INFORMATION:

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations revise Restricted Areas R-5601A, B, C, D, and E in the vicinity of Fort Sill, OK. The results of an FAA special use airspace review identified that most military activities in R-5601A, B, C, D, and E were conducted east of Interstate 40 at 40,000 feet mean sea level (MSL) and below. Reconfiguring Restricted Areas R-5601A, B, C, D, and E and decreasing the maximum altitude of R-5601C from 65,000 feet MSL to 40,000 feet MSL will, therefore, result in more efficient use of airspace and allow increased access for civilian traffic to the area west of Interstate 40 above 40,000 feet MSL. The Continental Control Area is amended to include R-5601A. These amendments involve the internal reconfiguration of these restricted areas and do not require additional restricted airspace; therefore, this is a minor technical amendment in which the public wouldn't be interested

in commenting, and I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Sections 71.151 and 73.56 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, Restricted areas.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, parts 71 and 73 of the Federal Aviation Regulations (14 CFR parts 71 and 73) are amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.151 [Amended]

2. § 71.151 is amended as follows:

R–5601A Fort Sill, OK [New]

PART 73—SPECIAL USE AIRSPACE

3. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 73.56 [Amended]

4. § 73.56 is amended as follows:

R–5601A Fort Sill, OK [Revised]

Boundaries. Beginning at lat. 34°38'15" N., long. 98°17'00" W.; to lat. 34°38'15" N., long. 98°20'55" W.; to lat. 34°38'30" N., long. 98°21'40" W.; to lat. 34°38'50" N., long. 98°22'05" W.; to lat. 34°39'53" N., long. 98°22'15" W.; to lat. 34°40'47" N., long. 98°23'08" W.; thence north along the western edge of Interstate Highway 40 to lat. 34°43'30" N., long. 98°24'00" W.; to lat. 34°43'30" N., long. 98°21'20" W.; to lat. 34°43'45" N., long. 98°21'00" W.; to lat. 34°46'06" N., long. 98°21'00" W.; to lat. 34°46'06" N., long. 98°17'00" W.; to the point of beginning.

Designated altitudes. Surface to 40,000 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA, Fort Worth ARTCC.

Using agency. U.S. Army, Commanding General, Fort Sill, OK.

R–5601B Fort Sill, OK [Revised]

Boundaries. Beginning at lat. 34°40'47" N., long. 98°23'08" W.; thence counterclockwise along an arc, 3-mile radius centered at lat. 34°38'18" N., long. 98°24'06" W.; to lat. 34°40'12" N., long. 98°26'17" W.; to lat. 34°38'15" N., long. 98°26'18" W.; to lat. 34°38'15" N., long. 98°37'56" W.; thence north along Oklahoma State Highway No. 115 to lat. 34°40'54" N., long. 98°37'53" W.; to lat. 34°42'07" N., long. 98°37'19" W.; to lat. 34°43'21" N., long. 98°36'01" W.; to lat. 34°43'30" N., long. 98°35'39" W.; to lat. 34°43'30" N., long. 98°24'00" W.; thence south along the western edge of Interstate Highway 40 to the point of beginning.

Designated altitudes. Surface to 40,000 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA, Fort Worth ARTCC.

Using agency. U.S. Army, Commanding General, Fort Sill, OK.

R–5601C Fort Sill, OK [Revised]

Boundaries. Beginning at lat. 34°38'15" N., long. 98°37'56" W.; to lat. 34°38'15" N., long. 98°45'20" W.; to lat. 34°41'47" N., long. 98°45'20" W.; to lat. 34°41'47" N., long. 98°44'16" W.; to lat. 34°41'21" N., long. 98°44'16" W.; to lat. 34°41'21" N., long. 98°40'35" W.; to lat. 34°40'54" N., long. 98°40'35" W.; to lat. 34°40'54" N., long. 98°37'53" W.; thence south along Oklahoma State Highway No. 115 to the point of beginning.

Designated altitudes. Surface to 40,000 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA, Fort Worth ARTCC.

Using agency. U.S. Army, Commanding General, Fort Sill, OK.

R–5601D Fort Sill, OK [Revised]

Boundaries. Beginning at lat. 34°38'15" N., long. 98°45'20" W.; to lat. 34°38'15" N., long. 98°48'00" W.; to lat. 34°42'15" N., long. 98°50'00" W.; to lat. 34°45'00" N., long. 98°40'30" W.; to lat. 34°43'30" N., long. 98°35'39" W.; to lat. 34°43'21" N., long. 98°36'01" W.; to lat. 34°42'07" N., long. 98°37'19" W.; to lat. 34°40'54" N., long. 98°37'53" W.; to lat. 34°40'54" N., long. 98°40'35" W.; to lat. 34°41'21" N., long. 98°40'35" W.; to lat. 34°41'21" N., long. 98°44'16" W.; to lat. 34°41'47" N., long. 98°44'16" W.; to lat. 34°41'47" N., long. 98°45'20" W.; to the point of beginning.

Designated altitudes. 500 feet AGL to 16,500 feet MSL.

Time of designation. Sunrise to sunset, Tuesday through Saturday; other times by NOTAM.

Controlling agency. FAA, Fort Worth ARTCC.

Using agency. U.S. Army, Commanding General, Fort Sill, OK.

R–5601E Fort Sill, OK [Revised]

Boundaries. Beginning at lat. 34°38'15" N., long. 98°37'57" W.; to lat. 34°36'00" N., long. 98°46'45" W.; to lat. 34°38'15" N., long. 98°48'00" W.; to lat. 34°38'15" N., long. 98°45'20" W.; to the point of beginning.

Designated altitudes. 500 feet AGL to 6,000 feet MSL.

Time of designation. Sunrise to sunset, Tuesday through Saturday; other times by NOTAM.

Controlling agency. FAA, Fort Worth ARTCC.

Using agency. U.S. Army, Commanding General, Fort Sill, OK.

Issued in Washington, DC, on September 6, 1989.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 89–22047 Filed 9–18–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 71 and 75

[Airspace Docket No. 89–AWA–3]

Alteration of VOR Federal Airways and Jet Routes; MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter the descriptions of several VOR Federal Airways and Jet Routes and add the DOLFIN, MI, Compulsory Reporting Point located in the Detroit metropolitan area. These changes are the result of the reorganization of the Detroit metropolitan air traffic control tower's (ATCT) and Cleveland air route traffic control center's (ARTCC) airspace. The traffic growth at the Detroit Metropolitan Airport and the intermix with the Chicago area traffic mandates these changes at this time. These actions improve traffic flow in the area and reduce controller workload.

EFFECTIVE DATE: 0901 u.t.c., November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation

Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On March 3, 1989, the FAA proposed to amend parts 71 and 75 of the Federal Aviation Regulations (14 CFR parts 71 and 75) to alter the descriptions of 13 airways and two jet routes located in the Detroit, MI, area (54 FR 9063). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment was received from the military objecting to the alignment of J–63, however, J–63 did not pass the required flight inspection and has been withdrawn from this docket. Except for editorial changes, the removal of J–63, changes to V–133, V–297, and V–450 to eliminate arrival/departure problems, and the addition of the DOLFIN, MI, Compulsory Reporting Point, these amendments are the same as those proposed in the notice. Sections 71.123 and 75.100 of parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6E dated January 3, 1989.

The Rule

These amendments to parts 71 and 75 of the Federal Aviation Regulations alter the descriptions of 13 airways and two jet routes located in the Detroit, MI, area. The Detroit metropolitan air traffic airspace area is being reorganized. The traffic growth at the Detroit Metropolitan Airport has been increasing each year and this growth is forecasted to continue. The descriptions of V–133, V–297, and V–450 have been changed to improve the flow of traffic in the Detroit area, and the DOLFIN, MI, Compulsory Reporting Point has been added. These actions improve traffic flow in the area and reduce controller workload.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR federal airways, Jet routes.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, parts 71 and 75 of the Federal Aviation Regulations (14 CFR parts 71 and 75) are amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V–116 [Amended]

By removing the words "INT Jackson 084° and Salem, MI, 254° radials; Salem; Windsor, ON, Canada; INT Windsor 100° and Erie, PA, 275° radials; Erie;" and substituting the words "INT Jackson 089° and Salem, MI, 251° radials; Salem; Windsor, ON, Canada; INT Windsor 092° and Erie, PA, 281° radials; Erie;"

V–133 [Amended]

By removing the words "INT Mansfield 346° and Salem, MI, 139° radials; Salem; Flint, MI; Saginaw, MI;" and substituting the words "INT Mansfield 349° and Salem, MI, 140° radials; Salem; INT Salem 346° and Saginaw, MI, 160° radials; Saginaw;"

V–176 [Removed]

V–218 [Amended]

By removing the words ", via Lansing, MI; Pontiac, MI; INT Pontiac 112° and Windsor, ON, Canada 320° radials Windsor; INT Windsor 134° and Akron, OH, 312° radials; to Akron. The airspace within Canada is excluded." and substituting the words "; to Lansing, MI."

V–221 [Amended]

By removing the words "INT Jackson 084° and Salem, MI, 254° radials; Salem; INT Salem 083° and Erie, PA, 290° radials;" and substituting the words "INT Jackson 089° and Salem, MI, 251° radials Salem; INT Salem 082° and Aylmer, Canada, 261° radials INT Aylmer 261° and Erie, PA, 303° radials;"

V–232 [Amended]

By removing the words "From INT of the Cleveland, OH, 024° and the Chardon, OH, 281° radials, via Chardon;" and substituting the words "From Chardon, OH;"

V–275 [Amended]

By removing the words "INT Dayton 007° and Salem, MI, 202° radials; Salem." and substituting the words "to INT Dayton 007° and Waterville, OH. 246° radials."

V–297 [Amended]

By removing the words "INT Akron 298° and Carleton, MI, 120° radials; to Carleton." and substituting the words "INT Akron 308° and Carleton, MI, 111° radials; INT Carleton 111° and Salem, MI, 130° radials."

V–337 [Amended]

By removing the words "INT Akron 328° and Windsor, ON, Canada, 116° radials; Windsor; 29 miles 7 miles wide (3 miles east and 4 miles west of centerline), INT Windsor 335° and Saginaw, MI, 131° radials Saginaw;" and substituting the words "INT Akron 343° and Peck, MI, 143° radials Peck; Saginaw, MI;"

V–450 [Amended]

By removing the words "INT Flint 088° and Peck, MI, 237° radials." and substituting the words "Sarnia, ON, Canada; to London, ON, Canada, excluding the airspace within Canada."

V–464 [Amended]

By removing the words "From the INT of Windsor, ON, Canada, 083° and Aylmer, ON, Canada, 235° radials, via Aylmer;" and substituting the words "From Salem, MI; via INT Salem 082° and Aylmer, ON, Canada, 261° radials; Aylmer;"

V–526 [Amended]

By removing the words "INT Waterville 108° and DRYER, OH, 252° radials;" and substituting the words "INT Waterville 113° and DRYER, OH. 252° radials;"

V–31 [Amended]

By removing the words "INT Rochester 279° and Geneseo, NY, 305° radials; INT Geneseo 305° and Kleinburg, ON, Canada, 133° radials; Kleinburg." and substituting the words "INT Rochester 279° and Toronto, Canada, 151° radials; Toronto."

§ 71.203 [Amended]

3. § 71.203 is amended as follows:

Dolfin, MI [New]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

4. The authority citation for part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

5. § 75.100 is amended as follows:

J–547 [Amended]

By removing the words "Flint, MI; Peck, MI; London, ON;" and substituting the words "Flint, MI; London, ON, Canada;"

Issued in Washington, DC, on September 1, 1989.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-22048 Filed 9-18-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

[Docket No. 87N-0246]

Certain Food, Cosmetic, and Miscellaneous Regulations; Editorial Amendments; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective dates for the final rule and amended certain of its food, cosmetic, and miscellaneous regulations to correct cross-references and typographical errors and to update the titles, mailing symbols, and addresses of certain organizations.

DATES: The effective date of July 13, 1989, is confirmed for 21 CFR Parts 103, 108, 109, 131, 133, 135, 136, 137, 139, 145 (other than § 145.3), 146, 150, 155, (other than § 155.3), 156 (other than § 156.3), 160, 161, 163, 164, 166, 168, and 169 (other than § 169.3). Sections 145.3, 155.3, 156.3 and 169.3 and all other amendments to 21 CFR Chapter I published in the **Federal Register** of June 12, 1989 (54 FR 24890) were effective on June 12, 1989.

FOR FURTHER INFORMATION CONTACT: T. Rada Proehl, Regulations Editorial Staff (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2992.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 12, 1989 (54 FR 24890), FDA amended certain of its food, cosmetic, and miscellaneous regulations in 21 CFR Chapter I to correct cross-references and typographical errors and to update the titles, mailing, symbols, and addresses of certain organizations. This action was intended to improve the accuracy and clarity of the regulations.

The amendments were effective June 12, 1989, except for: 21 CFR Parts 103, 108, 109, 131, 133, 135, 136, 137, 139, 145 (other than § 145.3), 146, 150, 155, (other than § 155.3), 156 (other than § 156.3), 160, 161, 163, 164, 166, 168, and 169 (other than § 169.3), which were to be effective on July 13, 1989.

The portions of the final rule that revise 21 CFR parts 103, 108, 109, 131, 133, 135, 136, 137, 139, 145 (except § 145.3), 146, 150, 155, (except § 155.3), 156 (except § 156.3), 160, 161, 163, 164, 166, 168, 169 (except § 169.3), 172, 173, 175, 176, 177, 178, 179, and 180 were promulgated under authority of sections 409 and 701(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348 and 371(e)), which require the agency to consider objections to final rulemaking. The agency noted than none of the changes that the agency was making in these parts effect a substantive change. However, FDA gave interested persons until July 12, 1989, to file objections or request for a hearing on the revisions to these parts. The agency received no objections or requests for a hearing. Therefore, FDA concludes that the final rule published in the **Federal Register** on June 12, 1989, should be confirmed.

Therefore, under the authority of the Federal Food, Drug, and Cosmetic Act, the Federal Import Milk Act, and the Public Health Service Act, and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the June 12, 1989, final rule. Accordingly, the amendments to 21 CFR Chapter I promulgated thereby became effective June 12, 1989, except for: 103, 108, 109, 131, 133, 135, 136, 137, 139, 145 (other than § 145.3), 146, 150, 155, (other than § 155.3), 156 (other than § 156.3), 160, 161, 163, 164, 166, 168, 169 (other than § 169.3), which because effective on July 13, 1989.

Dated: September 12, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-22051 Filed 9-18-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR PART 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Name; Technical Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is correcting the animal drug regulations that amended a change of sponsor name from Schering Corp. to Schering-Plough Corp. [54 FR 24900; June 12, 1989]. Because of a misunderstanding, the firm has recently informed FDA that Schering Corp. is the correct listing. Therefore, FDA is amending the regulations in 21 CFR 510.600(c) to make the indicated correction.

EFFECTIVE DATE: September 19, 1989.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, has informed FDA that it did not intend for a recent letter to result in publication of an amendment to 21 CFR 510.600(c)(1) and (2) that changed Schering Corp. to Schering-Plough Corp. Accordingly, the agency is correcting the error by amending the table in 21 CFR 510.600(c) (1) and (2).

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR Part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) in the entry for "Schering-Plough Corp." and in the table in paragraph (c)(2) in the entry for "000061" by revising the sponsor name to read "Schering Corp."

Dated: September 12, 1989.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation Center for Veterinary Medicine.

[FR Doc. 89-22050 Filed 9-18-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 510 and 520

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a

change of sponsor for four new animal drug applications (NADA's) from A.H. Robins Co. to ConAgra Pet Products Co.

EFFECTIVE DATE: September 19, 1989.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: ConAgra Pet Products Co., 3902 Leavenworth St., Omaha, NE 68105, has informed FDA that it is now the sponsor of four NADA's formerly held by A.H. Robins Co., 1405 Cummings Dr., P.O. Box 26609, Richmond, VA 23261. A.H. Robins confirmed the sponsor change. The NADA's affected are:

NADA	Product	Drug
46–922	Sergeant's Sure Shot Capsules.	*n*-Butyl chloride.
46–923	Sergeant's Puppy Worm Capsules.	*n*-Butyl chloride.
92–709	Sergeant's Worm-Away for Dogs.	Piperazine citrate.
92–710	Sergeant's Worm-Away for Cats.	Piperazine citrate.

This sponsor change does not involve any changes in facilities, equipment, procedures, or production personnel to manufacture the above products.

FDA is amending 21 CFR 510.600(c) (1) and (2) to add the new sponsor, and 21 CFR 520.260(a)(2) and 520.1803(b) to reflect the change of sponsor.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding an entry for "ConAgra Pet Products Co." and in the table in paragraph (c)(2) by numerically adding an entry for "021091" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
ConAgra Pet Products Co., 3902 Leavenworth St., Omaha, NE 68105.	021091
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
021091	ConAgra Pet Products Co., 3902 Leavenworth St., Omaha, NE 68105.
* * * * *	

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

§ 520.260 [Amended]

4. Section 520.260 *n-Butyl chloride capsules* is amended in paragraph (a)(2) by removing No. "000031" and adding in its place No. "021091".

§ 520.1803 [Amended]

5. Section 520.1803 *Piperazine citrate capsules* is amended in paragraph (b) by removing No. "000031" and adding in its place No. "021091".

Dated: September 12, 1989.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 89–22014 Filed 9–18–89; 8:45 am]

BILLING CODE 4160–01–M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules

AGENCY: National Labor Relations Board.

ACTION: Final rules.

SUMMARY: The National Labor Relations Board is revising its rules governing summary judgment procedures. The revisions describe how a motion for summary judgment or dismissal shall be filed with the Board and set precise time limits thereon, describe the evidentiary showing an adverse party must make to successfully oppose a motion for summary judgment or dismissal, and otherwise clarify the procedures the Board will follow in processing and ruling on such motions.

EFFECTIVE DATE: October 16, 1989. The revised rule will apply to all cases in which the complaint or compliance specification issues on or after this date.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue NW., Room 701, Washington, DC 20570, Telephone: (202) 254–9430.

SUPPLEMENTARY INFORMATION: Section 102.24 of the Board's rules provides that all motions for summary judgment made prior to the hearing shall be filed directly with the Board. The revised rule specifically provides that all motions filed with the Board, including motions for summary judgment or dismissal, shall be filed with the Executive Secretary of the Board in Washington, DC, by transmitting eight copies thereof together with an affidavit of service on the parties. (With respect to other motions that are filed with a Regional Director or an administrative law judge, the revised rule reduces the number of copies required from the previous five to three.)

There is no provision in the current rules which sets a precise time limit on filing motions for summary judgment or dismissal with the Board. Although the last sentence of § 102.24 states that all motions should be filed "promptly and within such time as not to delay the proceeding," in practice this statement has not deterred parties in some cases from waiting until a few days prior to the scheduled administrative law judge hearing to file their motions for summary judgment or dismissal with the Board. Such ill-timed motions are disruptive and impose an unreasonable burden on both the parties and the Board in their efforts to consider and address fully the motion prior to the hearing date. Accordingly, the revised rule provides that in the future all motions for summary judgment or dismissal shall be filed with the Board no later than 28 days prior to the scheduled hearing. If no hearing is scheduled, or if the hearing is scheduled less than 28 days after the date for filing an answer to the complaint or compliance specification, whichever is

applicable, the revised rule provides that the motion shall be filed promptly.

The Board's practice upon receipt of a motion for summary judgment or dismissal is either to issue a notice to show cause to the parties why the motion should not be granted or, where the motion appears deficient on its face, to deny the motion outright and remand the case for a hearing. The revised rule contains a statement describing this procedure.

As indicated in the revised rule, the issuance of a notice to show cause will normally have the effect of postponing the scheduled hearing indefinitely. An adverse party may, however, be opposed to such a postponement and be unwilling to risk that the Board will find the motion to be without merit sua sponte. Accordingly, the Board's practice is to permit an adverse party to file an opposition to the motion for summary judgment or dismissal prior to issuance of the notice, and the revised rule contains a statement describing this procedure. Coincident with the time limitation for filing motions, the revised rule provides that any such opposition must be filed no later than 21 days prior to the scheduled hearing in order to ensure that it will be considered by the Board.

In the event that a notice to show cause has issued, the Board's practice is to permit an adverse party to file a response thereto notwithstanding any opposition it may have filed prior to issuance of the notice. The time for filing the response is normally fixed in the notice to show cause. The revised rule contains a statement describing this procedure.

The ruling on motions for summary judgment or dismissal the Board does not require that an adverse party's opposition or response be supported by affidavits or other documentary evidence showing that there is a genuine issue for hearing; the Board in its discretion may deny the motion where the motion itself fails to establish the absence of a genuine issue, or where the adverse party's pleadings, opposition and/or response indicate on their face that a genuine issue may exist. Although Rule 56(e) of the Federal Rules of Civil Procedure provides to the contrary, the Board has determined that it would be impracticable to follow such a rule because, unlike the federal courts, the Board has never allowed prehearing discovery as such (see *NLRB* v. *Robbins Tire & Rubber Co.*, 437 U.S. 214, 236 (1978)). The revised rule contains a statement to this effect. To the extent that cases such as *Lake Charles Memorial Hospital*, 240 NLRB 1330 (1979), and *Western Electric Company*, 198 NLRB 623 (1972), could be read to reach a contrary conclusion, they are overruled.

Finally, the revised rule provides that in the event an adverse party files no opposition or response whatsoever, the Board may treat the motion as conceded, and summary judgment or dismissal, if appropriate, shall be entered.

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Board certifies that the revised rule will not have a significant impact on a substantial number of small businesses.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

Accordingly, 29 CFR part 102 is amended as follows:

PART 102—RULES AND REGULATIONS

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117 also issued under section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.24 is revised to read as follows:

§ 102.24 Motions; where to file; contents; service on other parties; promptness in filing and response; summary judgment procedures.

(a) All motions under §§ 102.16, 102.22, and 102.29 made prior to the hearing shall be filed in writing with the Regional Director issuing the complaint. All motions for summary judgment or dismissal made prior to the hearing shall be filed in writing with the Board pursuant to the provisions of § 102.50. All other motions made prior to the hearing shall be filed in writing with the chief administrative law judge in Washington, DC, with the deputy chief judge in San Francisco, California, with the associate chief judge in New York, New York, or with the associate chief judge in Atlanta, Georgia, as the case may be. All motions made at the hearing shall be made in writing to the administrative law judge or stated orally on the record. All motions filed subsequent to the hearing, but before the transfer of the case to the Board pursuant to § 102.45, shall be filed with the administrative law judge, care of the chief administrative law judge in Washington, DC, the deputy chief judge in San Francisco, California, the associate chief judge in New York, New York, or the associate chief judge in Atlanta, Georgia, as the case may be. Motions shall briefly state the order or relief applied for and the grounds therefor. All motions filed with a Regional Director or an administrative law judge as set forth above shall be filed therewith by transmitting three copies thereof together with an affidavit of service on the parties. All motions filed with the Board, including motions for summary judgment or dismissal, shall be filed with the Executive Secretary of the Board in Washington, DC, by transmitting eight copies thereof together with an affidavit of service on the parties. Unless otherwise provided in these rules, motions and responses thereto shall be filed promptly and within such time as not to delay the proceeding.

(b) All motions for summary judgment or dismissal shall be filed with the Board no later than 28 days prior to the scheduled hearing. Where no hearing is scheduled, or where the hearing is scheduled less than 28 days after the date for filing an answer to the complaint or compliance specification, whichever is applicable, the motion shall be filed promptly. Upon receipt of the motion, the Board may deny the motion or issue a notice to show cause why the motion should not be granted. If a notice to show cause is issued, the hearing, if scheduled, will normally be postponed indefinitely. If a party desires to file an opposition to the motion prior to issuance of the notice to show cause in order to prevent postponement of the hearing, it may do so; *Provided however*, That any such opposition shall be filed no later than 21 days prior to the hearing. If a notice to show cause is issued, an opposing party may file a response thereto notwithstanding any opposition it may have filed prior to issuance of the notice. The time for filing the response shall be fixed in the notice to show cause. It is not required that either the opposition or the response be supported by affidavits or other documentary evidence showing that there is a genuine issue for hearing. The Board in its discretion may deny the motion where the motion itself fails to establish the absence of a genuine issue, or where the opposing party's pleadings, opposition and/or response indicate on their face that a genuine issue may exist. If the opposing party files no opposition or response, the Board may treat the motion as conceded, and summary judgment or dismissal, if appropriate, shall be entered.

Dated, Washington, DC, September 14, 1989.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 89-22162 Filed 9-18-89; 8:45 am]

BILLING CODE 7545-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3648-3]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Bubble for the University of Rhode Island (renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. The intended effect of this action is to approve the renewal of an emissions trade of sulfur dioxide emissions from the University of Rhode Island (URI) in accordance with Rhode Island's State Implementation Plan. This action is being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will become effective October 19, 1989.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Pesticides, and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Room 2313, Boston, MA 02203; and Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908-5767.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge, (617) 565-3248; FTS 835-3248.

SUPPLEMENTARY INFORMATION: On April 28, 1989, the State of Rhode Island submitted a revision to its State Implementation Plan (SIP). The SIP revision consists of an renewal of a bubble for URI. This revision renews approval of this bubble for URI which EPA previously approved into the Rhode Island SIP on May 15, 1984 (49 FR 20493).

Rhode Island has renewed approval of this bubble under its Air Pollution Control Regulation No. 8 "Sulfur Content of Fuels" at subsection 8.3.2. At the time EPA proposed approval of subsection 8.3.2 on January 4, 1983 (48 FR 274) it proposed to approve all individual bubbles for sources determined to meet the requirements of subsection 8.3.2. That notice of proposed rulemaking stated that EPA would take final action on all such bubbles, without further proposal action, when each was submitted by the DEM as a source specific SIP revision. This action meets all of the requirements of subsection 8.3.2 and our notice of proposed rulemaking. EPA approved subsection 8.3.2 on March 29, 1983 (48 FR 13026). Bubbles issued under subsection 8.3.2 remain in effect for a period of no longer than three years. At the end of three years, the DEM may either renew or terminate the bubble. The DEM chose to renew this bubble.

Summary of SIP Revision

URI's bubble was originally approved on May 15, 1984 (49 FR 20493). The renewal which EPA is approving today is identical to the bubble EPA previously approved. Rhode Island's revision renews approval of the bubble for three more years. Under this bubble URI is allowed to burn high sulfur fuel in one boiler when another boiler is burning natural gas. Allowable emissions for sulfur dioxide and particulates are unchanged under this bubble.

Final Action

EPA is approving a renewal of the sulfur dioxide bubble approval for URI in accordance with Rhode Island Regulation 8, subsection 8.3.2, as submitted to EPA on April 28, 1989.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from date of publication]. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of Rhode Island was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 20, 1989.

Paul G. Keough,

Acting Regional Administrator Region I

Subpart OO, part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 [AMENDED]

Subpart OO—Rhode Island

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642

2. Section 52.2070 is amended by adding paragraph (c)(34) to read as follows:

§ 52.2070 Identification of plan.

(c) * * *

(34) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on April 28, 1989, approving a renewal of a sulfur dioxide bubble for the University of Rhode Island originally approved at paragraph (c)(21), of this section.

(i) Incorporation by reference

(A) A renewal of an emissions bubble for the University of Rhode Island effective December 26, 1986.

3. Table 52.2081 is amended by adding a new citation to entry "No. 8" to read as follows:

§ 52.2081 EPA-approved EPA Rhode Island State regulations.

* * * * *

TABLE 52.2081.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	FR citation	52.2070	Comments/Unapproved sections
*	*	*	*	*	*	
No. 8	Sulfur content of fuels	3/17/87	[Date of publication]	[*FR* citation from published date].	(C) (34)	URI bubble renewal.
*	*	*	*	*	*	

[FR Doc. 89–22074 Filed 9–18–89; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 81

[FRL 3646–6]

Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of final rulemaking.

SUMMARY: This notice is with respect to the attainment status designation for Montgomery County, Ohio, relative to the total suspended particulate (TSP) National Ambient Air Quality Standards (NAAQS). USEPA is disapproving the redesignation of Montgomery County, because of a lack of sufficient technical support date. As a result of this action, the current designation of Montgomery County, as codified in 40 CFR 81.336, remains the same.

Today's action is in response to the Ohio Environmental Protection Agency's (OEPA) February 26, 1987, request for a revision to the attainment status for TSP in Montgomery County. Under the Clean Air Act, area designations can be changed if sufficient data become available to warrant a redesignation.

EFFECTIVE DATE: This final rulemaking becomes effective on October 19, 1989.

ADDRESSES: Copies of the redesignation request and supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Division (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604;

Ohio Environmental Protection Agency, Office of Air Pollution Control, 1800 WaterMark Drive, P.O. Box 1049, Columbus, Ohio 43266–0149.

FOR FURTHER INFORMATION CONTACT: Maggie Greene, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886–6088.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added section 107(d) to the Clean Air Act (the Act). This section directed each State to submit, to the Administrator of USEPA, a list of the attainment status for all areas within the State. The Administrator was required to promulgate the State lists, with any necessary modifications. The Administrator published these lists in the **Federal Register** on March 3, 1978 (43 FR 8962), and made necessary amendments in the **Federal Register** on October 5, 1978 (43 FR 45993). These area designations are subject to revision whenever sufficient data become available to warrant a redesignation.

One pollutant for which USEPA published area designations was TSP. The TSP designations were based upon violations of the NAAQS developed for TSP by USEPA. The primary TSP NAAQS was violated when, in a year, either: (1) The geometric mean value of TSP concentrations exceeded 75 micrograms per cubic meter of air (ug/m^3) (the annual primary standard); or (2) the 24-hour concentration of TSP exceeded 260 ug/m^3 more than once (the 24-hour primary standard). The secondary TSP NAAQS was violated when, in a year, the 24-hour concentration exceeded 150 ug/m^3 more than once.

USEPA revised the particulate matter standard on July 1, 1987, (52 FR 24634) and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with a nominal diameter of 10 micrometers or less (PM_{10}). The USEPA is, therefore, continuing to process redesignations of areas from nonattainment to attainment or unclassifiable for TSP in keeping with past policy because various regulatory provisions, such as new source review and prevention of significant deterioration, are keyed to the attainment status of areas. USEPA's intention to continue to process redesignations is contained in the July 1, 1987, notice (p. 24682, column 1) which describes USEPA's transition policy regarding TSP redesignations.

On February 26, 1987, the State of Ohio requested that USEPA redesignate Montgomery County to attainment, except for the City of Moraine which should remain secondary nonattainment. (Portions of the County are currently primary nonattainment, secondary nonattainment, and attainment.)

On September 7, 1988 (53 FR 34557), the USEPA proposed to disapprove the redesignation of Montgomery County for TSP. USEPA stipulated in the Notice of Proposed Rulemaking (NPR) that the State of Ohio must submit specific additional technical support during the public comment period, if it wished the Agency to reverse its position.

Public Comments

Comments were submitted by the Regional Air Pollution Control Agency (RAPCA) in response to the September 7, 1988, NPR. Basically, RAPCA reiterated its position that Montgomery County is attainment, based on ambient monitoring data alone, and submitted additional ambient data.

In the NPR, USEPA stated that: (1) The technical support submitted by the State is not acceptable because of insufficient federally enforceable emission reductions, (2) the monitoring network is inadequate in two areas; and, (3) where monitoring data are not available, the State should justify why it considers the area attainment in the absence of monitoring data. The additional information, submitted to USEPA by RAPCA, does not fulfill the requirements specified in the NPR for the redesignation of Montgomery County. Although USEPA recognizes that RAPCA believes that air quality data alone should be sufficient to redesignate an area, USEPA must rely on the redesignation criteria cited in the NPR during the transition from the TSP SIP to the PM_{10} SIP, and accordingly must deny Ohio's redesignation.

Final Action

USEPA is disapproving the redesignation of Montgomery County, Ohio, relative to the former TSP NAAQS.

Nothing in this action should be construed as permitting or allowing, or establishing a precedent for any future request for revision to any SIP. Each request, for revision to the SIP, shall be considered separately in light of specific

technical, economic and environmental factors, and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator, under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 20, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental Protection Agency, Incorporation by reference, Intergovernmental relations, Total Suspended Particulates.

Authority: 42 U.S.C. 7401–7642.

Dated: August 30, 1989.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 89–21918 Filed 9–18–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP 6F3366/R1037; FRL–3648–4]

Pesticide Tolerances for Iprodione

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a permanent tolerance for residues of the fungicide iprodione in or on potatoes. This regulation to establish the maximum permissible level for residues of iprodione in or on this raw agricultural commodity was requested by Rhone-Poulenc, Inc.

EFFECTIVE DATE: September 8, 1989.

ADDRESS: Written objections, identified by the document control number (PP 6F3366/R1037), may be submitted to: Public Docket and Freedom of Information Section, Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail:

Susan Lewis, Acting Product Manager (PM 21), Registration Division (H–7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

In person, bring comments to:

Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 557–1900

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of August 11, 1989 (54 33044), which announced that Rhone-Poulenc, Inc., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, had submitted a pesticide petition (PP 6F3366) to EPA proposing that 40 CFR part 180 be amended by establishing a permanent tolerance for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethyl)-N-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidine-carboxamide] in or on potatoes at 0.5 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections would specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agriculture commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 8, 1989.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.399 [Amended]

2. In § 180.399 *Iprodione; tolerances for residues,* by amending paragraph (a) by removing the footnote 1 in the entry for potatoes and at the end of the table.

[FR Doc. 89–22073 Filed 9–18–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 261

[SW–FRL–3647–2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is granting a final exclusion from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32 for specified waste generated by Occidental Chemical Corporation, Sheffield, Alabama. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 268, 124, 270, and 271 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

EFFECTIVE DATE: September 19, 1989.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Room M–2427, Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The reference number for this docket is "F–89–OCEF–FFFFF." The public may copy material from any

regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact Linda Cessar, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 475–9828.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine that (1) the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the wastes at levels of regulatory concern.

B. History of this Rulemaking

Occidental Chemical Corporation (Occidental), located in Sheffield, Alabama, petitioned the Agency to exclude from hazardous waste control a specific waste that it intends to generate. After evaluating the petition, on November 8, 1988, EPA proposed to exclude Occidental's waste from the lists of hazardous waste under 40 CFR 261.31 and 261.32, conditional upon Occidental meeting certain sampling, analysis, and reporting requirements. See 53 FR 45112.

Occidental petitioned the Agency for an "upfront" exclusion. A petitioner requests an upfront exclusion for wastes that have not yet been generated or that will be subject to further treatment. When treatment is planned, an upfront delisting petition requests that an exclusion be granted based on untreated waste characteristics, pilot-scale treatment data if available, and process descriptions. As a condition of an upfront exclusion, the Agency may impose batch testing requirements, which often include analytical testing of representative samples obtained from the full-scale system. These data can be used to verify that the treatment system, once on-line, is operating as described in the petition. The Agency may also specify verification testing limitations (*i.e.*, the maximum allowable levels of hazardous constituents of concern in the waste) in the conditions of the granted exclusion. When the actual levels of the constituents of concern are below these levels, the waste will not be considered hazardous. If the actual levels of the constituents are above these levels, the waste is still considered to be hazardous and must be retreated or disposed in accordance with RCRA Subtitle C requirements.

This rulemaking addresses public comments received on the proposal and finalizes the proposed exclusion.

II. Disposition of Petition

Occidental Chemical Corporation, Sheffield, Alabama

1. Proposed Exclusion

Occidental petitioned the Agency to conditionally exclude from regulation as a hazardous waste its wastewater treatment sludge filter cake generated by its mercury cell process, presently listed as EPA Hazardous Waste No. K106—"Wastewater treatment sludge from the mercury cell process in chlorine production." Occidental based its petition on the claim that the constituent of concern, although present in the waste, was in an essentially immobile form. To support its claim that both the non-listed and listed constituents of concern would not be present in the retorted wastewater treatment sludge filter cake above levels of regulatory concern, Occidental submitted results from total constituent and Extraction Procedure (EP) toxicity analyses for all the EP toxic metals, nickel and cyanide. These analyses were performed on representative samples of Occidental's retorted wastewater treatment sludge filter cake, as generated, using a pilot-scale retort vessel. See 53 FR 45112, November 8, 1988, for a more detailed explanation of why EPA proposed to grant Occidental's petition for its retorted wastewater treatment sludge filter cake.

2. Agency Response to Public Comments

The Agency received public comments on the proposed rule from two interested parties. One commenter supported the Agency's proposed decision to exclude Occidental's retorted wastewater treatment sludge filter cake. The second commenter opposed the Agency's proposed decision. The comments made by the two interested parties are discussed below.

Clarification of the Rulemaking Record

One commenter supported the Agency's proposed decision and wished to clarify the rulemaking record. The commenter noted that the proposed rule indicated that steam is used as the primary source of heat used to vaporize the mercury inside the retort vessel. See 53 FR 45114, November 8, 1988. The commenter stated that the primary source of heat is actually a natural gas fired boiler and that the steam is used to enhance the removal of the mercury vapors from the retort vessel. The Agency notes that the commenter is correct and that the use of a natural gas fired boiler as the primary heat source, rather than steam, does not effect EPA's analysis of Occidental's retorted waste.

Petition-Specific Comments

One commenter opposed the Agency's proposal to grant Occidental an exclusion for the reasons discussed below.

The commenter stated that the waste still exhibits one of the criteria for which it was listed—the presence of significant concentrations of mercury. The commenter also stated that Occidental's treatment residues exhibit 2,000 times the background level of mercury typically found in soils. The commenter, therefore, believed that Occidental's treatment residues represent at least a potential risk to human health and the environment.

The Agency agrees that the presence in K106 wastes of significant total concentrations of mercury was one of the reasons for listing K106 wastes as "T" (toxic) wastes. See 40 CFR 261.11(a)(3)(ii) and "Background Document, Resource Conservation and Recovery Act, Subtitle C, Hazardous Waste Management, Section 3001, Identification and Listing of Hazardous Waste," 1980. The Agency, however, believes that the data presented in the Background Document broadly characterize the physical/chemical nature of mercury contaminated wastewater treatment sludges/filter cakes and that these data are not representative of the specific physical/chemical nature of Occidental's retorted wastewater treatment sludge filter cake. First, the concentrations of total and EP leachable mercury present in Occidental's retorted treatment residues are significantly less than the levels of total and EP leachable mercury typically found in K106 wastes (see Background Document noted above). Second, EPA believes it is reasonable to expect that, as the total constituent concentration of an unbound or loosely bound metal present in a waste increases, the potential for the metal to leach from the waste also increases (generally, the higher the total constituent concentration of an unbound or loosely bound metal, the higher the potential EP leachate concentration). Thus, wastes having significant total constituent

concentrations of unbound or loosely bound metals, as did those considered in the Background Document, are more likely to impact the underlying ground water than wastes having lower total constituent concentrations of unbound or loosely bound metals. Here, however, unlike the wastewater treatment sludges considered in the Background Document for K106 wastes, the metals in Occidental's treatment residue are tightly bound within the waste matrix. Thus, the Agency believes that the levels of the metals present in Occidental's treatment residue should not pose a threat to either human health or the environment. The Agency's conclusion that the listed and non-listed inorganic constituents of concern are bound in the waste matrix and thus are not available for leaching is supported by the results of the EP leachate analyses. See 53 FR 45115, November 8, 1988.

EPA evaluated the potential mobility of Occidental's treatment residue using the maximum EP leachate concentrations and the vertical and horizontal spread (VHS) model. For the small volume of waste to be generated by Occidental (40 cubic yards per year), the VHS model predicts a dilution factor of approximately 32.3. The VHS model analysis provides a conservative and reasonable worst-case evaluation of the waste's effect on the underlying aquifer. The predicted compliance-point concentrations resulting from this conservative analysis were below the levels of concern used for delisting purposes. See 53 FR 45115, November 8, 1988, for a description of the modeling analysis of Occidental's waste.

Furthermore, in delisting evaluations, EPA considers all the factors for which the waste was listed, as well as factors other than those for which the waste was originally listed, that could cause the waste to be hazardous. See 42 U.S.C. 6921(f). For this specific wastestream, based on the discussions presented above and in the proposal, EPA does not believe that any other factors, including total concentrations of the listed and non-listed inorganic constituents of concern, could cause this wastestream to present a hazard to human health and the environment.

The commenter also asserted that the Agency based its evaluation exclusively on the "worst-case scenario" of land disposal and that the proposed rule provides no basis for determining if the waste would be hazardous under other mismanagement scenarios. The commenter, therefore, believed that EPA only considered the leachable levels of hazardous constituents and did not consider waterborne and airborne dispersal of the waste.

With regard to possible airborne dispersal, the Agency believes that the commenter's concerns regarding airborne dispersal of the waste are unfounded. The Agency believes there is no substantial present or potential hazard to human health or the environment from airborne exposure to hazardous contaminants in Occidental's unretorted waste because Occidental's untreated waste will be regulated as a hazardous waste. Accordingly releases of the untreated waste to the atmosphere should be controlled. With regard to Occidental's retorted waste, Occidental must either dispose of their retorted waste on-site or ensure that the retorted waste is delivered to an off-site storage, treatment or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. See 53 FR 4511, November 8, 1988.

Although EPA does not believe that airborne exposure to hazardous contaminants from Occidental's retorted residue is likely to present a hazard to human health or the environment, the Agency, in order to fully respond to the specific comment, evaluated the hazards resulting from airborne exposure to hazardous constituents from Occidental's retorted residue. Specifically, EPA used the methodology documented in "Rapid Assessment of Exposure to Particulate Emissions from Surface Contamination Sites," U.S. Environmental Protection Agency, Office of Health and Environmental Assessment, EPA/600/8–85/002, February 1985, to estimate respirable particulate emissions from wind erosion of surfaces with an "unlimited reservoir" of erodible particles. The emission rate derived from this methodology then was input to the Agency's Ambient Air Dispersion Model (AADM), a steady-state, Gaussian plume dispersion model, to predict the concentrations of the inorganic constituents 1000 feet downwind of the facility. For a complete description and discussion of the AADM, see 50 FR 48963, November 27, 1985.

In this specific analysis, the Agency assumed conservative values for all variables likely to influence the potential for soil erosion including, wind velocity and vegetation. The Agency, however, modified the assumptions regarding unit dimensions used in the AADM to more closely resemble a landfill (*i.e.*, unit depth was changed from one foot to eight feet as used in the VHS model). The results of this conservative analysis indicated that no substantial present or potential hazard to human health or the environment from airborne exposure to both the listed and non-listed inorganic constituents from Occidental's retorted residue is likely. For a complete description of the Agency's analysis of air emissions from Occidental's retorted residue see "Docket Report on Evaluation of Air Emissions resulting from Occidental's Retorted Waste," August 22, 1989 (located in the docket for this rule).

With regard to waterborne dispersal of the waste, it is again important to note that Occidental's waste will be retorted and handled as hazardous until it is retorted. The VHS model analysis described in the proposal shows that leachate from the retorted treatment residue that travels through ground water will not exceed health based levels.

The Agency acknowledges that it may also be possible for surface water runoff to transport contaminants from the waste to a nearby surface water body. However, the Agency does not believe that analysis of such overland transport of contaminants as a reasonable exposure route for the petitioned waste would compel a different result for this petition. First, as described in the proposed rule, the Agency believes that landfill disposal is a reasonable worst-case management scenario for Occidental's retorted treatment residue. Contamination of surface water might occur, therefore, through runoff from the petitioned waste. However, EPA believes that the concentrations of any hazardous constituents in that runoff will tend to be lower than the levels in the EP leachate analyses reported in the proposal due to the acidic medium of the EP test. Furthermore, any transported constituents would be further diluted in the surface water body.

Secondly, the Agency believes that, in general, the leachate derived from this waste will not directly enter a surface water body without first travelling through the saturated (subsurface) zone where dilution and attenuation of hazardous constituents may occur. The VHS model takes this saturated zone into account as it predicts the ultimate fate and transport of hazardous constituents.

The commenter also stated that Occidental's analytical detection limit of 0.06 mg/l used in the EP toxicity analyses for lead exceeded the drinking water standard for lead of 0.05 mg/l. The commenter believed that a detection limit of 0.06 mg/l was neither technologically justifiable nor logical

and must not be allowed to serve as a reasonable basis of a waste analysis.

The Agency agrees that the detection limit of 0.06 mg/l for lead appears somewhat higher than should be achievable in the EP leachate. In this case, however, EPA believes that the detection limit reported by Occidental is acceptable. Specifically, using Occidental's intended waste generation volume of 40 cubic yards per year and health-based level of 0.05 mg/l, the VHS model analysis indicates that Occidental's waste could exhibit a maximum EP lead concentration of 1.61 mg/l and still be considered non-hazardous (*i.e.*, only a value exceeding 1.61 mg/l would yield a compliance-point concentration in excess of the drinking water standard). The detection limit used by Occidental, therefore, is approximately 27 times lower than the maximum allowable level. As a result, the Agency believes that the detection limit is sufficiently low to provide an adequate margin of safety.

Conditional Testing and Reporting Requirements

One commenter believed that EPA should modify condition number one to require Occidental to also analyze for total concentrations of mercury. The commenter stated that the Agency provided no information indicating that there will be any less variation in total mercury concentrations than EPA expects to occur in EP mercury levels. The commenter, therefore, believed that EPA should set a maximum allowable level for total mercury.

The Agency disagrees with the commenter. The Agency expects that this waste will be disposed of in a municipal landfill, where soil conditions would be mildly acidic. The EP extraction procedure is an appropriate analytical tool to evaluate the potential leachability of this waste in an acidic environment. For this waste, EPA believes that continued evaluation of the EP leachable concentrations as required by the conditions of this exclusion will be adequate to protect human health and the environment. Furthermore, the Agency has not developed a health-based delisting criterion for evaluating the total constituent concentration of mercury. To require Occidental to continually monitor for the total concentration of mercury will not ensure further protection of human health or the environment. Therefore, EPA chose to require Occidental to continually monitor for the levels of mercury in the EP leachate, rather than the total mercury in the waste itself.

One commenter requested that the Agency modify condition number (1) which requires Occidental to sample every batch, and to allow the sampling of the waste in a hopper, which would contain four batches. The commenter suggested that this reduction in testing be implemented after Occidental showed that twenty consecutive batch analyses meet the delisting level for mercury. The commenter agreed with the Agency that it was appropriate to collect and analyze batch samples during the initial start-up period. The commenter, however, believed that samples collected from a 1.5 cubic yard hopper, containing four batches of treatment residue, would adequately characterize the potential variation in mercury concentrations.

The Agency agrees with the commenter and believes that a reduction in testing can be implemented without jeopardizing human health or the environment (see below). The Agency, therefore, has modified condition number (1) to allow Occidental, after thirty consecutive batches meet the delisting level for mercury, to collect representative grab samples from every batch of retorted wastewater treatment sludge filter cake on a daily basis and composite the grab samples to produce a weekly composite sample of the treatment residue. The weekly composite sample, prior to the disposal, must be analyzed for the EP leachate concentration of mercury. The Agency believes that the reduction from collecting batch samples to collecting weekly composite samples (*e.g.*, several full-depth core samples collected from the hopper and combined to produce one weekly composite sample) will adequately characterize the potential variation in mercury concentrations. The collection and analysis of a weekly composite sample allows Occidental to accurately characterize the waste as it is disposed of and will provide the same amount of protection to human health and the environment while reducing the analytical burden placed on the petitioner. The Agency notes, however, that as a result of the reduction from daily to weekly testing, Occidental may potentially need to retreat or dispose of as hazardous a slightly larger volume of waste (*i.e.*, several batches versus one batch).

The Agency also elected to modify the reporting requirements associated with this exclusion. Specifically, the Agency no longer believes it is necessary to require the petitioner to submit all of the analytical results every 90 days. Rather, the Agency is requiring Occidental to submit only the analytical results from the initial testing within 90 days. In addition, Occidental is now required to compile and store on-site for a minimum of three years, all results obtained from subsequent testing analyses. The Agency realized that requiring the petitioner to submit these analytical data every 90 days, would place an undue burden on both the petitioner and EPA. In addition, the Agency, may at any time, either visit the facility for inspection purposes or request the petitioner to report these data. Therefore, the Agency is maintaining the same level of protection without requiring the petitioner to report these analytical data every 90 days.

The Agency, therefore, has restructured the proposed conditions. The Agency has not reduced the requirements, other than as discussed above. The conditions of this exclusion now read:

(1) Initial Testing

During the first four weeks of full-scale retort operation, Occidental must do the following:

(A) Collect representative grab samples from every batch of retorted material and composite the grab samples to produce a weekly composite sample. The weekly composite samples, prior to disposal or recycling, must be analyzed for the EP leachate concentrations of all the EP toxic metals (except mercury), nickel, and cyanide (using distilled water in the cyanide extractions), and the total constituent concentrations of reactive sulfide and reactive cyanide. Occidental must report the analytical test data, including all quality control data, obtained during this initial period no later than 90 days after the treatment of the first full-scale batch.

(B) Collect representative grab samples of every batch of retorted material prior to its disposal or recycling and analyze the sample for EP leachate concentration of mercury. Occidental must report the analytical test data, including all quality control data, within 90 days after the treatment of the first full-scale batch.

(2) Subsequent Testing

After the first four weeks of full-scale retort operation, Occidental must do the following:

(A) Continue to sample and test as described in condition (1)(A).Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Alabama. These testing requirements shall be terminated by EPA when the results of four

consecutive weekly composite samples of the petitioned waste, obtained from either the initial testing or subsequent testing, show the maximum allowable levels in condition (3) are not exceeded and the Section Chief, Variances Section, notifies Occidental that the requirements of this condition have been lifted.

(B) Continue to sample and test for mercury as described in condition (1)(B).

Occidental must compile and store on-site for a minimum of three vears all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Alabama. These testing requirements shall remain in effect until Occidental provides EPA with analytical and quality control data for thirty consecutive batches of retorted material, collected as described in condition (1)(B), demonstrating that the EP leachable levels of mercury are below the maximum allowable level in condition (3) and the Section Chief, Variances Section, notifies Occidental that the testing in condition (2)(B) may be replaced with (2)(C).

(C) [If the conditions in (2)(B) are satisfied, the testing requirements for mercury in (2)(B) shall be replaced with the following condition]. Collect representative grab samples from every batch of retorted material on a daily basis and composite the grab samples to produce a weekly composite sample. Occidental must analyze each weekly composite sample prior to its disposal or recycling for the EP leachate concentration of mercury, Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Alabama.

(3) If, under condition *(1) or (2),* the EP leachate concentrations for chromium, lead, arsenic, or silver exceed 1.616 mg/l; for barium exceeds 32.3 mg/l; for cadmium or selenium exceed 0.323 mg/l; *for mercury exceeds 0.065 mg/l,* for nickel exceeds 16.15 mg/l; for cyanide exceeds 22.61 mg/l; or for total reactive cyanide or total reactive sulfide levels exceed 250 mg/kg and 500 mg/kg, respectively, the waste must either be retreated until it meets these levels or managed and disposed of in accordance with Subtitle C of RCRA.

(4) Within one week of system start-up, Occidental must notify the Section Chief, Variances Section (see address below) when the full-scale retort system is on-line and waste treatment has begun. All data obtained through condition (1) must be submitted to the Section Chief, Variances Section, PSPD/OSW (OS-343), U.S. EPA, 401 M Street, SW., Washington, DC 20460 within the time period specified in condition (1). At the Section Chief's request, Occidental must submit any other analytical data obtained through condition (2) to the above address, within the time period specified by the Section Chief. * * *

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that Occidental's retorted wastewater treatment sludge filter cake, when subject to the verification testing requirements specified in the exclusion, should be excluded from hazardous waste control. The Agency, therefore, is granting a final conditional exclusion to Occidental Chemical Company, located in Sheffield, Alabama, for its retorted wastewater treatment sludge filter cake, described in its petition as EPA Hazardous Waste No. K106. The exclusion applies only to the processes covered by the original demonstration. The facility would require a new exclusion if either its manufacturing or treatment processes are significantly altered such that an adverse change in waste composition or increase in waste volume occurred. Accordingly, the facility would need to file a new petition for the altered waste. The facility must treat waste generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Limited Effect of Federal Exclusion

The final exclusion being granted today is being issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to § 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Since a petitioner's waste may be regulated under a dual system (*i.e.,* both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

IV. Effective Date

This rule is effective September 19, 1989. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this rule should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule to grant an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous. There is no additional economic impact, therefore, due to today's rule.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmenta' jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and is limited to one facility. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050-0053.

VIII. List of Subjects in 40 CFR Part 261

Hazardous Materials, Waste Treatment and Disposal, Recycling.

Date: September 5, 1989.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922.]

2. In table 2 of appendix IX, add the following wastestream in alphabetical order:

Appendix IX—Wastes Excluded Under 260.20 and 260.22

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
•	•	•
Occidental Chemical Corp. Muscle Shoals Plant ...	Sheffield, Alabama	Retorted wastewater treatment sludge from the mercury cell process in chlorine production (EPA Hazardous Waste No. K106) after September 19, 1989. This exclusion is conditional upon the submission of data obtained from Occidental's full-scale retort treatment system because Occidental's original data were based on a pilot-scale retort system. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern once the full-scale treatment facility is in operation, Occidental must implement a testing program. All sampling and analyses (including quality control procedures) must be performed according to SW-846 procedures. This testing program must meet the following conditions for the exclusion to be valid: (1) Initial Testing—During the first four weeks of full-scale retort operation, Occidental must do the following: (A) Collect representative grab samples from every batch of retorted material and composite the grab samples to produce a weekly composite sample. The weekly composite samples, prior to disposal or recycling, must be analyzed for the EP leachate concentrations of all the EP toxic metals (except mercury), nickel, and cyanide (using distilled water in the cyanide extractions), and the total constitutent concentrations of reactive sulfide and reactive cyanide. Occidental must report the analytical test data, including all quality control data, obtained during this initial period no later than 90 days after the treatment of the first full-scale batch. (B) Collect representative grab samples of every batch of retorted material prior to its disposal or recycling and analyze the sample for EP leachate concentration of mercury. Occidental must report the analytical test data, including all quality control data, within 90 days after the treatment of the first full-scale batch. (2) Subsequent Testing—After the first four weeks of full-scale retort operation, Occidental must do the following: (A) Continue to sample and test as described in condition (1)(A). Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Alabama. These testing requirements shall be terminated by EPA when the results of four consecutive weekly composite samples of the petitioned waste, obtained from either the initial testing or subsequent testing show the maximum allowable levels in condition (3) are not exceeded and the Section Chief, Variances Section, notifies Occidental that the requirements of this condition have been lifted. (B) Continue to sample and test for mercury as described in condition (1)(B). Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Alabama. These testing requirements shall remain in effect until Occidental provides EPA with analytical and quality control data for thirty consecutive batches of retorted material, collected as described in condition (1)(B), demonstrating that the EP leachable levels of mercury are below the maximum allowable level in condition (3) and the Section Chief, Variances Section, notifies Occidental that the testing in condition (2)(B) may be replaced with (2)(C).

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(C) [If the conditions in (2)(B) are satisfied, the testing requirements for mercury in (2)(B) shall be replaced with the following condition]. Collect representative grab samples from every batch of retorted material on a daily basis and composite the grab samples to produce a weekly composite sample. Occidental must analyze each weekly composite sample prior to its disposal or recycling for the EP leachate concentration of mercury. Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Alabama. (3) If, under condition (1) or (2), the EP leachate concentrations for chromium, lead, arsenic, or silver exceed 1.616 mg/l; for barium exceeds 32.3 mg/l; for cadmium or selenium exceed 0.323 mg/l; for mercury exceeds 0.065 mg/l, for nickel exceeds 16.15 mg/l; for cyanide exceeds 22.61 mg/l; or for total reactive cyanide or total reactive sulfide levels exceed 250 mg/kg and 500 mg/kg, respectively, the waste must either be retreated until it meets these levels or managed and disposed of in accordance with subtitle C of RCRA. (4) Within one week of system start-up, Occidental must notify the Section Chief, Variances Section (see address below) when the full-scale retort system is on-line and waste treatment has begun. All data obtained through condition (1) must be submitted to the Section Chief, Variances Section, PSPD/OSW (OS-343), U.S. EPA, 401 M Street SW., Washington, DC 20460 within the time period specified in condition (1). At the Section Chief's request, Occidental must submit any other analytical data obtained through condition (2) to the above address, within the time period specified by the Section Chief. Failure to submit the required data will be considered by the Agency sufficient basis to revoke Occidental's exclusion to the extent directed by EPA. All data must be accompanied by the following certification statement: "Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code which include, but may not be limited to, 18 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personnal verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of wastes will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion."
* * *	* * *	* *

[FR Doc. 89-21961 Filed 9-18-89; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6748

[AZ-931-09-4214-10; A-12358]

Revocation of Executive Order No. 1082 and Public Land Order No. 5761; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive Order (EO), as modified by a public land order (PLO),which withdrew 172.80 acres of public land for use as the site for a magnetic observatory, presently under the administrative jurisdiction of the U.S. Geological Survey (USGS). The land was originally closed to all forms of entry; however, upon transfer of jurisdiction in 1980 the land was opened to the mineral leasing laws. The value of the site for observatory purposes has diminished over the years due to urban encroachment into the surrounding area. The City of Tucson desires to acquire these lands for park and public purposes. The land is no longer considered suitable for the purpose for which it was withdrawn. On August 29, 1989, the USGS agreed to revocation of the withdrawal provided certain conditions are met to which the City has agreed. The City will relocate the magnetic site at their expense.

EFFECTIVE DATE: September 19, 1989.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona, 85011, 602-241-5509.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. EO 1082 of June 3, 1909, as modified by PLO 5761, which withdrew the following described land from all forms of entry for use by the U.S. Coast and Geodetic Survey as a site for a magnetic observatory is hereby revoked in its entirety:

Gila and Salt River Meridian

T. 14 S., R. 15 E.,
Sec. 5, lots 3, 4, and S½NW¼.

The area described contains 172.80 acres in Pima County.

2. The land remains closed to operation of the public land laws, including the mining laws, due to an overlapping segregation under the Recreation and Public Purposes Act.

Dated: September 13, 1989.

Manuel Lujan Jr.,

Secretary of the Interior.

[FR Doc. 89-22092 Filed 9-18-89; 8:45 am]

BILLING CODE 4310-32-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NOAA Fisheries), NOAA, Commerce.

ACTION: Notice rescinding a ban on tuna imports.

SUMMARY: The NOAA Assistant Administrator for Fisheries announces thast the Republic of El Salvador no longer has large purse seine vessels fishing for tuna in the eastern tropical Pacific Ocean. As a result of this finding, the ban on importation of yellowfin tuna from El Salvador is rescined and yellowfin tuna from El Salvador may be imported into the United States.

DATES: This notice is effective September 18, 1989 and remains in effect until superseded.

FOR FURTHER INFORMATION CONTACT: E. Charles Fullerton, Regional Director, or J. Gary Smith, Deputy Regional Director, Southwest Region, NOAA Fisheries, at (213) 514-6196.

SUPPLEMENTARY INFORMATION: On March 7, 1989 (54 FR 9438), NOAA promulgated interim final rule concerning the importation of yellowfin tuna caught by purse seines in the eastern tropical Pacific Ocean (ETP). Under this rule, in order to import yellowfin tuna into the United States, any nation which has purse seine vessels of greater than 400 tons carrying capacity operating in the ETP must supply documentary evidence that it has a regulatory program governing the incidental taking of marine mannals (porpoise) in the tuna fishery and a resultant mortality rate or marine mammals which are comparable to that of the United States.

Yellowfin tuna from El Salvador has been banned from importation into the United States since October 10, 1986 because that nation had not provided information necessary to determine that they had a marine mammal protection program for their tuna fishery that is comparable to that of the United States. This ban was continued under the interim final rule on yellowfin tuna imports published March 7, 1989. Although El Salvador still has not provided the information required from nations which have purse seine vessels of greater than 400 tons carrying capacity fishing for tuna in the EPT, NOAA has determined that the last purse seine vessel of that size under El Salvador's flag in the EPT has been sold and transferred to the flag of Panama. The Republic of Panama currently has a finding of conformance under the U.S. marine mammal protection regulations.

Therefore, El Salvador no longer need meet the requirements for an ETP harvesting nation to have its yellowfin tuna imported into the United States. The ban on importation of yellowfin tuna from El Salvador is rescinded.

Dated: September 12, 1989.

James W. Brennan,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 89-22065 Filed 9-18-89; 8:45 am]

BILLING CODE 3510-22-M

50 CFR PART 642

[Docket No. 90639-9208]

RIN 0648-AC55

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement Amendment 4 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). This rule reallocates Atlantic migratory group Spanish mackerel. The intended effect of this rule is to allocate more equitably Atlantic migratory group Spanish mackerel between recreational and commercial users.

EFFECTIVE DATE: October 19, 1989.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813-893-3722.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the FMP, prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils), and its implementing regulations at 50 CFR part 642, under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Amendment 4 addresses the present allocation of total allowable catch (TAC) for Atlantic migratory group Spanish mackerel (76 percent commercial and 24 percent recreational) which is a factor contributing to early recreational harvest restrictions (zero bag limits) and adverse socioeconomic impacts. For Atlantic migratory group Spanish mackerel, Amendment 4 addresses this problem by establishing a procedure to change the allocation to 50 percent recreational and 50 percent commercial as the TAC increases.

Discussion of the development of Amendment 4, background regarding the current commercial/recreational allocation of Atlantic migratory group Spanish mackerel, the issues and their impacts, and the rationale for the Councils' preferred options in Amendment 4 were included in the proposed rule (54 FR 25593, June 16, 1989) and are not repeated here.

Comments and Responses

Seven respondents submitted comments on Amendment 4 and the proposed rule. Five, primarily from the recreational sector, supported the amendment. Those in support included a recreational angler, a charterboat owner, a localized fishing club, a national sport fishing organization, and a federal wildlife agency. The two opposing comments were received from the commercial sector: One state and one national commercial fisheries organization.

Comments objecting to the proposed reallocation of total allowable catch (TAC) between the recreational and commercial fisheries centered on inconsistency with national standards 1, 2, 4, and 5 of the Magnuson Act, and the appropriateness of the present allocation ratio (76 percent commercial/24 percent recreational). Comments and responses concerning the proposed rule are categorized and listed below:

National Standard I

Comments: Opponents stated that the proposed rule would neither promote conservation nor achieve optimum yield, in violation of national standard 1. They contended that the proposed reallocation of 90 percent of the increased 1989/90 TAC (1.8 million pounds) to the recreational sector would promote overfishing and be inconsistent with catch limitations required under the rebuilding program. This contention

is based on the excessive recreational catches during the past two fishing years, 1987/88 and 1988/89, which exceeded the allocations by 177 percent (1.30 million pounds) and 202 percent (1.94 million pounds), respectively. Objectors also argued that no evidence suggests that the proposed 50/50 reallocation will achieve optimum yield (OY).

Response: NOAA does not agree that the reallocation will promote overfishing, in violation of national standard 1. The key to prevention of overfishing is improved compatibility in state regulations, which NOAA is convinced will occur with this reallocation as indicated by each state representative on the South Atlantic Council. Most of the recreational harvest of the Atlantic group Spanish mackerel is now regulated by state and federal bag limits and most of the harvest is taken in state waters. Georgia is the only southeast state that has not implemented compatible bag limits, but it is proposing to do so by September 1989. Currently, only South Carolina reduces to zero its bag limit when the recreational allocation for Atlantic group Spanish mackerel is reached and the federal bag limit is reduced to zero. More significantly, after implementation of Amendment 4, NOAA expects that all the southeast states will adopt recreational harvest limitations that are compatible with the federal management regime. Compatible recreational harvest limitations by all the states will significantly reduce recreational allocation overruns and fishing mortality and will accelerate stock improvement. Regarding OY, its definition within the FMP is equivalent to TAC, which NOAA is convinced will be achieved.

National Standard 2

Comments: Opponents commented that the 50/50 reallocation proposal is based on inadequate scientific data (national standard 2) and that Council's selection of the early 1970s as the appropriate period from which to gauge historical participation in Atlantic group Spanish mackerel fisheries is arbitrary.

Response: NOAA agrees that recreational catch data prior to 1979 are limited and subject to more uncertainty than estimates of recent catches. However, increased commercial landings of Spanish mackerel during the late 1970s and early 1980s may have suppressed recreational catches estimated from 1979—85, the period from which the current 76/24 allocation ratio is based. Accordingly, based on the above occurrences, the greater recreational participation suggested by pre-1979 angling estimates, and testimony by state fishery managers, the Councils firmly believe that landings during the early 1970s best represent historical participation in this fishery. In addition, a 50/50 commercial/recreational allocation ratio may reflect a more representative balance among commercial and recreational fishermen when considering the nearshore availability and ease of access to Spanish mackerel. NOAA believes, therefore, that the proposed reallocation takes the best information available into account, and that the Councils' decision to select the early 1970s as the period to gauge historical participation is reasonable.

National Standard 4

Comments: Opponents contend that the amendment is inconsistent with national standard 4 in that it is not fair, equitable, or reasonably calculated to promote conservation. They believe the proposed 50/50 reallocation ratio is unfair and inequitable to commercial fishermen, processors, distributors, and consumers because it misrepresents their historical share of the resource and will increase negative economic impacts on the commercial fishery. Moreover, they contend it unfairly provides an excessive share to the recreational sector that, absent effective regulation, has historically exceeded its allocation. Consequently, the revised ratio would not promote conservation, and commercial fishermen who have been impacted severely, socially and economically, by low quotas and closures would not share equitably in increases to stock and TAC.

Response: The Councils are best suited to make the initial fairness and equity determinations associated with allocation decisions. Their decision that this measure is fair and equitable is reasonable, and therefore, NOAA concurs with their decision. This amendment pertains almost exclusively to allocation of the Spanish mackerel resource. Considering that the majority of the catch, particularly the recreational component, is taken in state waters, the sole means of promoting conservation is to allocate the resource based on ratios acceptable to the states so as to encourage the implementation of compatible regulations. Unless the states believe in and support the allocation decisions, compatible and effective regulations required to conserve the resource cannot be attained.

National Standard 5

Comments: One respondent contended that the proposed rule was inconsistent with national standard 5 but provided insufficient commentary to explain the objection.

Response: NOAA does not consider the proposed rule to be inconsistent with national standard 5. The central issue of Amendment 4 is allocation rather than efficiency. The goal of providing low-cost, American seafood products to the consumer does not appear to be jeopardized.

E.O. 12291

Comments: Opposing comments indicate that the regulatory impact review (RIR) required by E.O. 12291 does not provide adequate information on the need for and consequences of the proposed action (e.g., short-term and long-term productivity). Moreover, in opposition to the findings of the RIR, the objectors contend that negative impacts resulting from the implementation of Amendment 4 will be significant. This conclusion is based on their belief that negative socioeconomic impacts sustained from the past three years of strict management will continue under the proposed reallocation.

Response: NOAA agrees that the economic analyses and assessments within the RIR could benefit from more detailed and indepth elaboration. Such improvements are curtailed, however, by the limitations of available economic and fisheries data. These deficiencies affect the analyses of impacts on both the commercial and recreational sectors. Nevertheless, the analyses and assessments are based on the best available data.

NOAA finds no basis for disapproval of Amendment 4. Accordingly, the proposed rule is being implemented without change.

Classification

The Secretary of Commerce determined that Amendment 4 is necessary for the conservation and management of the coastal migratory pelagic resources and that it is consistent with the Magnuson Act and other applicable law.

The Under Secretary for Oceans and Atmosphere, NOAA, determined that this rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This rule is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of

U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Councils prepared a regulatory impact review for Amendment 4. A summary of the economic effects was included in the proposed rule.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities for the following reasons. The commercial sector will be allocated an amount in excess of their average catch from 1970–74, when the resource was not considered to be overfished. In addition, the current allocation represents a 13 percent increase over the 1986–87 average catch. As a result, a regulatory flexibility analysis was not prepared.

The Councils determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of North Carolina, South Carolina, Florida, Alabama, Mississippi, and Louisiana. Georgia and Texas do not have approved coastal zone management programs. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. North Carolina, South Carolina, Florida, and Louisiana agreed with the Councils' determination. Alabama and Mississippi did not comment within the statutory time period and, therefore, consistency is automatically implied.

The Councils prepared an environmental assessment (EA) for Amendment 4 and, based on the EA, the Assistant Administrator for Fisheries, NOAA, concluded that there will be no significant adverse impact on the human environment as a result of this rule.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 13, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 642 is amended as follows:

PART 642—COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC.

1. The authority citation for Part 642 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 642.21 [Amended]

2. In § 642.21, in paragraph (c)(2) the number "4.56" is 1.44 revised to read "3.24" and in paragraph (d)(2) the number "1.44" is revised to read "2.76".

[FR Doc. 89–22058 Filed 9–14–89; 11:50 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 54, No. 180
Tuesday, September 19, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

16 CFR Part 703

Rule on Informal Dispute Settlement Procedures

AGENCY: Federal Trade Commission.

ACTION: Extension of time for public comment on advance notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission has granted all interested parties an additional 60-day extension, until November 15, 1989, of the time for filing public comments on an Advance Notice of Proposed Rulemaking for possible amendments to its rule governing informal dispute settlement procedures (16 CFR part 703). The Advance Notice, published on May 16, 1989 (54 FR 21070), originally had provided a 60-day period for submitting written comments ending on July 17, 1989. On July 17, 1989, the Commission granted a 60-day extension for filing public comments, ending on September 15, 1989.

DATE: Written comments will now be accepted until November 15, 1989.

ADDRESS: Written comments and suggestions should be marked "Rule 703 Review" and sent to the Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:
Carole I. Danielson, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326–3115
or
Steven Toporoff, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326–3135

SUPPLEMENTARY INFORMATION: On August 29, 1989, the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") and the Automobile Importers of America, Inc. ("AIA") filed a joint request for an additional extension of the public comment period on the review of the Commission's Rule Governing Informal Dispute Settlement Procedures, 16 CFR part 703 ("Rule 703"). In an Advance Notice of Proposed Rulemaking ("ANPR") published on May 16, 1989, the Commission had requested written public comment on whether Rule 703 should remain unchanged, or whether it should be amended (54 FR 21070). The comment period was to have ended on July 17, 1989. On July 17, 1989, after considering a joint request filed by the Attorneys General of Minnesota, California, Connecticut, Florida, and New York, the Commission granted a 60-day extension for filing public comments, ending September 15, 1989 (54 FR 29910).

The MVMA and AIA state that their member automobile manufacturers intend to submit a collective response to the questions posed in the Commission's ANPR. They state that an additional 60 days beyond September 15 is needed in order to collect responsive information from all parties and to present the information in a collective answer.

Having considered the request, the complexity of the issues raised by the ANPR, and the desirability of obtaining comments from all interested parties that fully reflect their individual or combined views and experience, the Commission has determined that an additional 60-day extension of time should be granted to all who wish to comment, including those who have previously submitted comments. Accordingly, the Commission has extended the deadline for filing public comments on the ANPR to November 15, 1989.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89–22093 Filed 9–18–89; 8:45 am]
BILLING CODE 6750–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 84 and 87

[89–024]

RIN 2115–AD28

Annex 1: Positioning and Technical Details of Lights and Shapes & Distress Signals

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend Annex I and Annex IV of the Inland Navigation Rules to conform to changes in the International Navigation Rules. The proposed amendments in Annex I are technical clarifications, and the amendment to Annex IV proposes additional available signals to indicate distress and need of assistance.

DATES: Comments must be received on or before November 3, 1989.

ADDRESSES: Comments should be submitted to Executive Secretary, Marine Safety Council (G–LRA–2/3600),(CGD 89–024), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593. Comments may be delivered to and will be available for inspection and copying in Room 3600, between the hours of 8 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:
Mr. Peter Palmer, Navigation Rules and Information Branch, Office of Navigation Safety and Waterway Services, (202) 267–0406.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 89–024), and the specific section to which their comments apply, and give reasons for each comment.

All comments received before the expiration of the comment period will be

considered before final action is taken on this proposal.

Drafting Information

The principal persons involved in the drafting of this proposal are Mr. Peter Palmer, Project Manager, Office of Navigation Safety and Waterway Services, and Christena Green, Project Attorney, Office of Chief Counsel.

Discussion of Proposed Regulation

The Inland Navigational Rules Act of 1980 (33 U.S.C. 2001–2073) established navigation rules that apply to all vessels operating on the inland waters of the United States and on the Great Lakes to the extent that there is no conflict with Canadian law. These Inland Rules conform as closely as possible with the International Navigation Rules (72 COLREGS). In November 1987, the International Maritime Organization (IMO) approved nine amendments to the 72 COLREGS. These nine changes will become effective on November 19, 1989.

In October 1988, the Rules of the Road Advisory Council, after reviewing the IMO amendments, recommended that five of the changes approved by IMO be incorporated into the Inland Rules. Two of the changes involve Inland Rules 1 & 8 and require legislative action. The Coast Guard has submitted a legislative proposal to the Congress to affect these amendments. The three remaining changes involve amendments to Annexes I and IV of the Inland Rules and are the subject of this proposed rulemaking.

Annex I, section 84.03—Vertical positioning and spacing of lights. In paragraph i(2), the term "gunwale" will replace the term "hull" in the existing text. This change will clarify the location from which the vertical positioning of certain lights on vessels of less than 20 meters in length is measured.

Annex I, section 84.19—Vertical sectors. In paragraphs (a) and (b) the word "underway" will be added after the words "sailing vessels". This change will clarify when sailing vessels must comply with the vertical sector requirements.

In Annex IV, section 87.1—Need of assistance. A new paragraph (o) will be added and old paragraph (o) will be changed to "(p)". This change will allow use of the International Maritime Satellite Corporation (INMARSAT) ship to earth station terminal, the Digital Selective Calling (DSC) system and other radiocommunication systems developed in the future.

The INMARSAT's U.S. representative is Communication Satellite Corporation (COMSAT). This system is a computerized system with an automatic alert function used during distress situations. The DSC system transmits distress information through use of radio signals. Both systems may use the currently available frequencies in Chapter 9 of the International Telecommunication Union Radio Regulations.

In Annex IV, section 87.5—Supplemental signals. In the introductory text of § 87.5, the words "the International Telecommunication Union Radio Regulations" are inserted. This regulatory insertion identifies the operation and available frequencies of the radiotelegraph alarm, radiotelephone alarm, emergency position-indicating radio beacons, INMARSAT and DSC systems.

Regulatory Evaluation

The proposed regulations are considered to be non-major under Executive Order 12291 and non-significant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The proposed technical amendments merely conform the Inland Rules with the 72 COLREGS. Since the impact is expected to be minimal, the Coast Guard certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects

33 CFR Part 84

Navigable (waters) waterways.

33 CFR Part 87

Navigable (waters) waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend parts 84 and 87 of Title 33, Code of Federal Regulations as follows:

PART 84—[AMENDED]

1. The authority citation for Part 84 continues to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.46.

2. Section 84.03 is amended by revising paragraph (i)(2) and republishing the introductory text of paragraph (i) to read as follows:

§ 84.03 Vertical positioning and spacing of lights.

* * * * *

(i) When the Rules prescribe two or three lights to be carried in a vertical line, they shall be spaced as follows:

* * * * *

(2) On a vessel of less than 20 meters in length such lights shall be spaced not less than 1 meter apart and the lowest of these lights shall, except where a towing light is required, be placed at a height of not less than 2 meters above the gunwale;

* * * * *

3. Section 84.19 is amended by revising the introductory text of paragraphs (a) and (b) to read as follows:

§ 84.19 Vertical sectors.

(a) The vertical sectors of electric lights as fitted, with the exception of lights on sailing vessels underway and on unmanned barges, shall ensure that:

* * * * *

(b) In the case of sailing vessels underway the vertical sectors of electric lights as fitted shall ensure that:

* * * * *

PART 87—[AMENDED]

4. The authority citation for Part 87 is revised to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.46.

5. Section 87.1 is amended by redesignating paragraph (o) as paragraph (p) and republishing it and by adding a new paragraph (o) to read as follows:

§ 87.1 Need of assistance.

* * * * *

(o) Signals transmitted by radiocommunication systems.

(p) A high intensity white light flashing at regular intervals from 50 to 70 times per minute.

6. Section 87.5 is amended by revising the introductory text to read as follows:

§ 87.5 Supplemental signals.

Attention is drawn to the relevent sections of the International Code of Signals, the Merchant Ship Search and Rescue Manual, the International Telecommunication Union Radio Regulations and the following signals:

* * * * *

Dated: August 25, 1989.

R. T. Nelson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 89–21967 Filed 9–18–89; 8:45am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3647-6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is proposing to grant a petition submitted by Occidental Chemical Corporation, Mobile, Alabama, to exclude certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 268, 124, 270 and 271 of Title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous wastes lists. Today's proposed decision is based on an evaluation of waste-specific information provided by the petitioner.

The Agency is also proposing the use of a fate and transport model and its application in evaluating the waste-specific information provided by the petitioner. This model has been used in evaluating the petition to predict the concentration of hazardous constituents released from the petitioned wastes once they are disposed.

DATES: EPA is requesting public comments on today's proposed decision and on the applicability of the fate and transport model used to evaluate the petition. Comments will be accepted until November 3, 1989. Comments postmarked after the close of the comment period will be stamped "late."

Any person may request a hearing on this proposed decision and/or the model used in the petition evaluation by filing a request with Joseph Carra, whose address appears below, by October 4, 1989. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS-305) U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variances Section, Assistance Branch, PSPD/OSW (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F-89-OC2P-FFFFF."

Requests for a hearing should be addressed to Joseph Carra, Director, Permits and State Programs Division, Office of Solid Waste (OS-340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The RCRA regulatory docket for this proposed rule is located at U.S. Environmental Protection Agency, 401 M Street SW., Room M2427, Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information concerning this notice, contact Linda Cessar, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-9828.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (*i.e.* ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See 40 CFR 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the Agency to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, reactivity, corrosivity, and EP toxicity), and must present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. See 40 CFR 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes which are "delisted" (*i.e.*, excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. See 40 CFR 261.3 (c) and (d)(2). The substantive standard for "delisting" a treatment residue or a mixture is the same as previously described for listed wastes.

B. Approach Used to Evaluate This Petition

In making a delisting determination, the Agency evaluates each petitioned waste against the listing criteria and factors cited in 40 CFR 261.11 (a)(2) and (a)(3). If the Agency believes that the waste remains hazardous based on the factors for which the waste was originally listed, EPA will propose to deny the petition. If, however, the Agency agrees with the petitioner that the waste is non-hazardous with respect to the original listing criteria, EPA then will evaluate the waste with respect to other factors or criteria, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The Agency considers

whether the waste is acutely toxic, and considers the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and any other additional factors which may characterize the petitioned waste.

The Agency is proposing to use such information to identify plausible exposure routes for hazardous constituents present in the waste, and is proposing to use a fate and transport model to predict the concentration of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the unregulated disposal of Occidental's petitioned wastes on human health and the environment. Specifically, the model will be used to predict compliance-point concentrations which will be compared directly to the levels of regulatory concern for particular hazardous constituents.

EPA believes that this fate and transport model represents a reasonable worst-case waste disposal scenario for the petitioned wastes, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA subtitle C. Because a delisted waste is no longer subject to hazardous waste control, the Agency is generally unable to predict and does not control how a waste will be managed after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors. For example, a generator may petition the Agency for delisting of a metal hydroxide sludge which is currently being managed in an on-site landfill and provide data on the nearest drinking water well, permeability of the aquifer, dispersivities, etc. If the Agency were to base its evaluation solely on these site-specific factors, the Agency might conclude that the waste, at that specific location, cannot affect the closest well, and the Agency might grant the petition. Upon promulgation of the exclusion, however, the generator is under no obligation to continue to manage the waste at the on-site landfill. In fact, it is likely that the generator will either choose to send the delisted wastes off site immediately, or will eventually reach the capacity of the on-site facility and subsequently send the waste off site to a facility which may have very different hydrogeological and exposure conditions.

The Agency also considers the applicability of ground-water monitoring data to its evaluation of delisting petitions. In this case, the Agency determined that, because Occidental is seeking an upfront delisting (*i.e.*, an exlusion for waste generated from a laboratory-scale treatment process), ground-water monitoring data collected from the area where the petitioner plans to dispose of the wastes are not necessary. Because the petitioned wastes are not currently generated or disposed of, ground-water data would not characterize the effects of the petitioned wastes on the underlying aquifer at the disposal site, and thus, would serve no purpose.

Occidental petitioned the Agency for an upfront exclusion (for wastes that have not yet been generated) based on a laboratory-scale waste treatment process (*i.e.*, a scaled down version of a proposed treatment system), untreated waste characteristics, and process descriptions. The Agency is proposing that verification testing requirements (*i.e.*, required analytical testing of representative samples, obtained from the full-scale treatment system verifying that the treatment system is on-line and operating as described in the petition) be made conditions of the exclusion. These conditions, if the exclusion is granted, will be implemented in order to show that, once on-line, the treatment system can render the waste non-hazardous by meeting the Agency's verification testing limitations (*i.e.*, the maximum allowable level of the hazardous constituents of concern present in the waste, below which, the waste would not be considered hazardous).

From the evaluation of Occidental's upfront delisting petition, a list of constituents was developed for the verification testing and tentative maximum allowable treated waste concentrations for these constituents were derived by back calculating from the health-based levels used for delisting decision-making through the use of the proposed fate and transport model for a landfill management scenario. These levels (*i.e.*, "delisting levels") are proposed conditions of the delisting.

The Agency encourages the use of upfront delisting petitions because they have the advantage of allowing the applicant to know what treatment levels for constituents should be sufficient to render specific wastes non-hazardous, before investing in new or modified waste treatment systems. Therefore, upfront delisting will allow new facilities to receive exclusions prior to generating wastes, which without upfront exclusions, would unnecessarily have been considered hazardous. Upfront delistings for existing facilities can be processed concurrently during construction or permitting activities; therefore, new or modified treatment systems should be capable of producing wastes that are considered non-hazardous sooner than otherwise would be possible. At the same time, conditional batch testing requirements to submit data verifying that the delisting levels are achieved by the fully operational manufacturing/treatment systems will maintain the integrity of the delisting program and will ensure that only non-hazardous wastes are removed from Subtitle C control.

Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require the Agency to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all public comments (including those at requested hearings, if any) on today's proposal are addressed.

II. Disposition of Petition

Occidental Chemical Corporation, Mobile, Alabama

1. Petition for Exclusion

Occidental Chemical Corporation (Occidental), located in Mobile, Alabama, produces chlorine gas and potassium hydroxide. Occidental petitioned the Agency to exclude its treated potassium chloride brine sludge, presently listed as EPA Hazardous Waste No. K071—"Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used." The listed constituent of concern for EPA Hazardous Waste No. K071 is mercury. Occidental petitioned to exclude its waste because it does not believe the treated brine sludge meets the criteria of the listing. Occidental also believes that its treatment process will generate a non-hazardous waste because the constituent of concern, although present in the waste, is both low in concentration and is in an essential immobile form. Occidental further believes that the treated wastes are not hazardous for any other reason (*i.e.*, there are no additional constituents or factors that could cause the waste to be hazardous). Review of this petition included consideration of the original listing criteria, as well as additional factors required by the Hazardous and Solid Waste Amendments of 1984. See

section 222 of the Amendments, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)–(4). Today's proposal to grant this petition for delisting is the result of the Agency's review of Occidental's petition.

2. Background

Occidental petitioned the Agency to exclude its treated potassium chloride brine sludge on March 30, 1988 and subsequently provided additional information to complete its application. In support of its petition, Occidental submitted (1) detailed descriptions of its manufacturing and proposed waste treatment processes; (2) a list of the raw materials used in both the manufacturing and treatment processes; (3) results from total constituent and EP toxicity analyses for all the EP toxic metals, nickel and cyanide from representative samples of the treated brine sludge; (4) results from total constituent analyses for total sulfide and total oil and grease, and; (5) information on the characteristics of ignitability, corrosivity and reactivity on representative samples of the treated waste. Once Occidental's full-scale treatment system is on-line, EPA proposes that Occidental be required to perform analyses for the EP leachate concentrations of all the EP toxic metals, nickel and cyanide and the total constituent concentrations of reactive sulfide and reactive cyanide on batches of treated waste (see section 6—*Verification Testing Conditions*).

Occidental produces chlorine gas and potassium hydroxide through electrolysis of saturated salt solutions (potassium chloride brine) in mercury cells. The potassium chloride brine system is described further below.

The saturated salt brine which is fed to the electrolytic mercury cell is prepared by dissolving potassium chloride (KCl) in the depleted KCl brine solution recycled from previous use in the mercury cells. After clarification and filtration to remove impurities in the re-saturated brine, the KCl brine flows into an electrolytic cell. The solid impurities removed from the brine saturators and clarifiers comprise the K071 waste described in Occidental's petition. The contributing K071 waste streams are described below.

1. Potassium Chloride Clarifier Sludge

After the brine is re-saturated with KCl salt, it is transferred to a reaction tank where potassium carbonate is added to precipitate calcium impurities as calcium carbonate. The brine solution is then pH adjusted to precipitate iron, magnesium and aluminum as hydroxides. These precipitates which collect in the clarifier comprise the potassium chloride clarifier sludge and are a portion of the K071 waste generated by Occidental. This material is periodically removed (using a rake) and transferred to the brine filter backwash tank (described further below).

2. Potassium Chloride Filter Backwash Sludge

After clarification in the clarifier, the brine is passed through a sand filter to remove any remaining precipitates or other impurities. After filtration, the brine is pH and temperature adjusted, and returned to the mercury cells for electrolysis. The materials which collect in the filters are periodically backwashed with brine to the brine filter backwash tank (noted above) and subsequently combined with the KCl Clarifier Sludge described above. Together, the solid materials in the filter backwash tank comprise the K071 wastes, referred to herein as the KCl Sludge, which Occidental is petitioning to delist.

In addition to the KCl salt impurities described above, some of Occidental's KCl salt suppliers add up to 200 ppm of an anti-caking agent to the KCl. The non-hazardous anti-caking material is either ARMAC HT (amine acetate of 30 percent $C_{18}H_{36}O_2NH_3$) or ARMEEN T (tallowamine, $C_{18}H_{35}NH_2$). These materials are applied to prevent large lumps from forming in the salt. Upon exposure to the brine, a portion of the amine degrades to hexadecane nitrile and octadecane nitrile. These non-hazardous compounds settle in the clarifier or filters.

Once the potassium chloride brine is inside the electrolytic mercury cell, the potassium and chloride are ionized. The chloride forms chloride gas (Cl_2), and the potassisum ion forms an amalgam with the mercury. The depleted brine is recycled to the potassium chloride saturator tank. The amalgam flows out of the electrolytic cell into a "denuder" or decomposer unit. Water added to this carbon-packed denuder unit reacts with the amalgam to form potassium hydroxide, hydrogen and mercury. The mercury is recycled to the electrolytic cell. The potassium hydroxide and hydrogen are further processed and sold as products.

Occidential proposes to initially water-wash the KCl sludge to dissolve the KCl salt (which comprises approximately 20 percent of the waste), allowing the KC1 to be recycled to the brine treatment system. Thus, mercury on the surface and within the crystals of the KC1 salt will also be returned to the production process. The water-washed KC1 sludge will then be washed with a 100 ppm sodium hydrosulfide solution to dissolve metal hydroxides (primarily magnesium hydroxide, iron hyrdroxide and alumnium hydroxide) and as a result, will mobilize any mercury associated with these compounds. Mercury contained in the sodium hydrosulfide wash waters will be recovered in Occidental's NPDES-permitted waste water treatment system. The mercury in the wash water will be precipitated by additonal sodium hydrosulfide and associated mercury precipitates will be filtered out prior to disposal.

For laboratory-scale testing purposes, KC1-sludge samples were initially debrined by pressure filtration until a semi-dry material was obtained. (A similar debrining step will be included in the full-scale system.) Samples were then water-washed (in a beaker) and hydrochloric acid was added to pH 6. The mixture was filtered and the wash process repeated. After the pH adjustment, sodium hydrosulfide was added to the beaker to produce a 100 ppm solution. The mixture was filtered and the laboratory-treated material was submitted for analysis.

Occidental tested this treatment process as described above and submitted data from this laboratory-scale unit as the basis for a petitioned upfront delisting. Occidental plans to construct a full-scale treatment once their laboratory-scale system has produced wastes that support an upfront exclusion. As noted above, if the petitioned waste is delisted, the resulting treated brine sludge will be disposed at an off-site non-hazardous waste facility.

To collect representative samples for unfront delisting demonstrations, petitioners are normally required to collect a minimum of four composite samples comprised of independent grab samples collected over time. See "Test Methods for Evaluating Solid Waste: Physical/Chemical Methods," U.S. EPA, Office of Solid Waste and Emergency Response, Publication SW–846 (third edition), November 1986, and "Petitions to Delist Hazardous Wastes—A Guidance Manual," U.S. EPA Office of Solid Waste (EPA/530–SW–85–003, April 1986). Representative sampling, as conducted by Occidental for the KC1-sludge, is described below.

Grab samples of the untreated KC1-sludge were collected from the roll-off box where it accumulates. Using the appropriate collection equipment, samples were collected from randomly chosen locations in the roll-off container. Some samples were also

collected directly from the filter. Using the appropriate collection equipment, grab samples were collected from each plate section on the filter.

Occidental collected six samples over the period of August 20, 1987 through October 22, 1987. At the Agency's request, additional sampling was conducted; this additional sampling was conducted over the period of June 1, 1988 through August 15, 1988, producing four additional samples.

The initial six treated samples were analyzed for the total constituent concentration (*i.e.*, mass of a particular constitutent per mass of waste), and extraction procedure (EP) leachate concentrations (*i.e.*, mass of a particular constituent per unit volume of extract) of mercury. The additional four treated samples were analyzed for the total constituent concentrations and EP leachate concentrations of all the EP toxic metals, nickel and cyanide. The four latter treated samples were also analyzed for total sulfide and total oil and grease.

Occidental claims that, due to a consistent manufacturing and treatment process, the analysis from samples collected over time are representative of any variation in the waste or the treated brine sludge concentrations.

3. Agency Analysis

Occidental used SW–846 Methods 7060–7760 to quantify the total constituent concentrations in the treated waste. See "Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods," U.S. EPA Office of Solid Waste and Emergency Response, Publication SW–846 (third edition) November 1986. In addition to these methods, Occidental used SW–846 Method 1310 (standard EP) to quantitate the leachable concentrations of the EP toxic metals, nickel and cyanide in the treated waste. Method 9010 was used to determine the total cyanide concentrations in the treated waste. Table 1 presents the mercury concentrations and the EP leachate concentrations of mercury in the first set of waste samples collected. Table 2 presents the maximum total constituent concentrations of the EP toxic metals, nickel, cyanide and sulfide in the waste. Table 3 presents the maximum EP leachate concentrations of the EP toxic metals, nickel and cyanide in the treated waste. (It appears that the first set of samples have significantly lower EP Leachate concentrations than the maximum EP leachate concentration for the second set samples. It should be noted, however, that the remainder of samples from the second set had EP leachate values which are comparable to those in the first set.) These detection limits represent the lowest concentrations quantifiable by Occidental, when using the appropriate SW–846 analytical methods to analyze its waste. (Detection limits may vary according to the waste and waste matrix being analyzed *i.e.*, the "cleaniness" of waste matricies varies and "dirty" waste matricies may cause interferences, thus raising the detection limit).

TABLE 1.—TOTAL MERCURY CONCENTRATIONS AND EP LEACHATE CONCENTRATIONS OF MERCURY TREATED KCl SLUDGE

[First sample set]

Sample No.	Total concentration (mg/kg)	EP Leachate concentration (mg/L)
8200	66	0.0006
8250	62	.0009
8260	35	.0002
9280	59	.0002
10020	27	.0001
10220	40	.0002

TABLE 2.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS TREATED KCl Sludge

[Second sample set]

Constituents	Total constituent concentrations (mg/kg)
Arsenic	2.7
Barium	150
Cadmium	ND (<0.6)
Chromium	11.0
Lead	310
Mercury	70
Nickel	210
Selenium	ND (<0.6)
Silver	ND (<1.0)
Cyanide	ND (<0.5)
Sulfide	ND (<10.0)

ND: Not detected above the detection limit shown in parentheses.

TABLE 3.—MAXIMUM EP LEACHATE CONCENTRATIONS TREATED KCl Sludge

[Second sample set]

Constituents	Maximum EP leachate concentrations (mg/L)
Arsenic	.033
Barium	ND (<0.2)
Cadmium	ND (<0.007)
Chromium	ND (<0.03)
Lead	0.11
Mercury	0.0080
Nickel	4.4
Selenium	ND (<0.006)
Silver	ND (<0.01)
Cyanide	ND (<0.01)

ND: Not detected above the detection limit shown in parentheses.

Three of the four additional samples submitted by Occidental were analyzed by one laboratory, and the fourth sample was analyzed by a second laboratory. The second laboratory used SW–846 Method 6010 for all metals analyses (with the exception of mercury) in the single EP leachate sample. Consequently, the second laboratory had higher detection limits than the first laboratory. The detection limits obtained by the second laboratory (in mg/L units) were as follows: barium, 5.0; cadmium, 0.1; chromium, 0.25; lead, 0.25; selenium, 0.2; silver, 0.1; and cyanide, 0.2.

The Agency reviewed the quality control (QC) data from both laboratories to ensure that analyses were conducted property and to certify data validity. Based on the results of the Agency's evaluation of the QC data, and in consideration of the differences in the SW–846 methods used by the two different laboratories, the Agency believes it is appropriate to propose an upfront conditional exclusion for Occidental. Although not an incorrect procedure, Method 6010 cannot routinely achieve detection limits as low as other applicable methods. The Agency believes the detection limits obtained by the second laboratory were reasonable under the circumstances and thus, these results were taken into account when evaluating this petition. As noted earlier, the verification testing requirements will provide analytical sample data from the full-scale treatment system, and will ensure that the full-scale system is operating as planned, rendering the KCl sludge non-hazardous. If the treated brine sludge fails to meet the delisting levels, then the waste must be re-treated or managed and disposed as hazardous.

Using SW–846 Method 9070, Occidental determined that the maximum oil and grease content of the treated waste was 0.2 percent. Therefore, the EP analyses did not need to be modified in accordance with the Oily Waste EP methodology (*i.e.*, wastes having more than one percent total oil and grease may either have significant concentrations of the constituents of concern in the oil phase, which may not be assessed using the standard EP leachate procedure, or the concentration of oil and grease may be sufficient to coat the solid phase of the sample and interfere with the leaching of metals from the sample). See SW–846 Method 1330. On the basis of information provided by Occidental, pursuant to 40 CFR 260.22, none of the samples analyzed exhibited the characteristics of

ignitability, corrosivity or reactivity. See 40 CFR 261.21, 261.22, and 261.23.

Occidental submitted a signed certification stating that, based on current waste generation and experimental treatment data for the wastes, its maximum annual generation rate of treated KCl sludge will be 36 tons per year. The Agency reviews a petitioner's estimates and, on occasion, has requested petitioners to re-evaluate estimated waste volume. EPA accepts Occidental's certified estimate of 36 tons per year for the treated KCl sludge wastes. EPA does not generally verify submitted test data before proposing delisting decisions, and it has not verified the data upon which it proposes to grant Occidental's exclusion. The sworn affidavit submitted with this petition binds the petitioner to present truthful and accurate results. The Agency, however, has initiated a spot-check sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions, and it may select this facility in the future for spot-check sampling.

4. Agency Evaluation

The Agency considered the appropriations of alternative disposal scenarios for treated KO71 potassium chloride brine sludges and decided that a landfill scenario is the most reasonable, worst-case scenario. Under a landfill disposal scenario, the major exposure route of concern for most hazardous constituents would be through ingestion of contaminated ground water. Thus, the Agency evaluated the petitioned wastes using its vertical and horizontal (VHS) landfill model which predicts the potential for ground-water contamination from wastes that are landfilled. See 50 FR 7882 (February 26, 1985), 50 FR 48896 (November 27, 1985), and the RCRA public docket for a detailed description of the VHS model and is parameters. This modeling approach, which includes a ground-water transport scenario, was used with conservative, generic parameters to predict reasonable worst-case contaminant levels in the ground water at a hypothetical receptor well (*i.e.*, the model estimates the ability of an aquifer to dilute the toxicant from a specific volume of waste). The Agency requests comments on the use of the VHS model as applied to the evaluation of Occidental's wastes.

Specifically, the Agency used the VHS model to evaluate the mobility of the hazardous inorganic constituents detected in the EP extract of Occidental's treated mercury brine mudwastes. The Agency's evaluation, using the maximum waste generation rate of 36 tons per year and the maximum reported EP leachate concentrations, generated the compliance-point concentrations shown in Table 3. VHS model compliance-point concentrations were generated only for those constituents of concern which were detected above the appropriate detection limits, as noted in Table 2. (The maximum mercury value from the combined total of both data sets (10) was used for the VHS analyses.) The Agency believes it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. Specifically, if a constituent cannot be detected (when using the appropriate analytical method), the Agency assumes that the constituent is not present and therefore does not present a threat to either human health or the environment.

TABLE 3.—VHS MODEL: CALCULATED COMPLIANCE-POINT CONCENTRATIONS

Constituents	Compliance-point concentrations (mg/L)	Health-based levels (mg/L)
Arsenic	0.0102	0.05
Lead	.0034	.05
Mercury	.00025	.002
Nickel	.14	.5

The treated KCl sludge exhibited arsenic, lead, mercury, and nickel concentrations at the compliance-point below the health-based levels used for delisting decision-making. See "Docket Report of Health-Based Regulatory Levels and Solubilities Used in the Evaluation of Delisting Petitions," June 8, 1988, located in the RCRA public docket.

The concentration of total sulfide in the treated brine sludge is less than 10 mg/kg. Thus, the Agency believes that the concentration or reactive sulfide in the treated brine sludge will be below the Agency's interim standard of 500 ppm. See "Interim Agency Thresholds for Toxic Gas Generation," July 22, 1985, Internal Agency Memorandum, in the RCRA public docket.

The EP leachate and total constituent concentration of cyanide in all four samples was less than 0.02 mg/L and less than 1 mg/kg, respectively. Thus, the Agency believes that the concentration of reactive cyanide will be below the Agency's interim standard of 250 ppm. See "Interim Agency Thresholds for Toxic Gas Generation," July 22, 1985, Internal Agency Memorandum.

The Agency reviewed Occidental's list of raw materials and material safety data sheets, and did not identify any other hazardous constituent of concern being used by Occidental, and it believes that no other hazardous constituent of concern are likely to be present or formed as reaction products or by-products of Occidentals' waste. Lastly, based on information submitted by Occidental, the waste is not expected to exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23.

5. Conclusion

The Agency believes that Occidental's proposed treatment system can render the potassium chloride brine sludges non-hazardous. The manufacturing and treatment processes are believed to be uniform and consistent since the facility neither operates as a job shop nor has seasonal product variations.

The Agency has determined, through its review of similar petitions from mercury cell operations, that the total mercury concentration of the treated KCl-sludge will vary to some extent, depending on the amount of constituent precipitation which occurs during treatment. As a result of the possible variations in the total concentration of mercury, Occidental requested a conditional exclusion, in which they would be required to analyze treated waste samples for EP leachate concentrations of mercury and to meet the limits set forth in the exclusion prior to disposal of the waste. The Agency agrees that an exclusion based upon conditional testing is appropriate; the rationale for this decision is discussed further in Section 6—*Verification Testing Conditions.*

The Agency, therefore, is proposing that the treated KCl sludge, if it meets certain verification testing requirements, be considered non-hazardous as it should not present a significant hazard to either human health or the environment. The Agency proposes to grant a conditional exclusion to Occidental Chemical Corporation, located in Mobile, Alabama, for its treated K071 residues, described in its petition as EPA Hazardous Waste No. K071. If the proposed rule becomes effective, the treated residue would no longer be subject to regulation under 40 CFR parts 262 through 268 and the permitting standards of 40 CFR part 170.

6. Verification Testing Conditions

As stated earlier, the proposed exclusion contains verification testing

requirements. If the final exclusion is granted, the petitioner will be required both to verify that the treatment system is on-line and operating as described in the petition, and to show that, once on-line, the treatment system can meet the Agency's verification testing limitations (*i.e.*, "delisting levels"). All sampling and analyses (including quality control procedures) must be performed according to SW–846 methodologies. These proposed conditions are specific to the upfront exclusion petitioned by Occidental.

This proposed exclusion is conditional upon the following:

(1) *Initial Testing:* During the first four weeks of full-scale treatment system operation, Occidental must do the following:

(A) Collect representative grab samples from every batch of treated KCl-sludge on a daily basis and composite the samples to produce a weekly composite sample. The weekly composite sample, prior to disposal, must be analyzed for the EP leachate concentrations of all the EP toxic metals (except mercury), nickel, and cyanide (using deionized water instead of acetic acid in the cyanide extraction), and the total constituent concentrations of reactive sulfide and reactive cyanide. Occidental must report the analytical test data, including all quality control data, obtained during this initial period, no later than 90 days after the treatment of the first full-scale batch.

(B) Collect representative grab samples of every batch of treated KCl-sludge and composite the grab samples to produce a daily composite sample. The daily composite sample, prior to its disposal, must be analyzed for the EP leachate concentration of mercury. Occidental must report the analytical test data, including all quality control data, within 90 days after the treatment of the first full-scale batch.

(2) *Subsequent Testing:* After the first four weeks of full-scale treatment system operation, Occidental must do the following:

(A) Continue to sample and test as described in condition (1)(A). Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Alabama. These testing requirements shall be terminated by EPA when the results of four consecutive weekly composite samples of the petitioned waste, obtained from either the initial testing or subsequent testing, show the maximum allowable levels in condition (3) are not exceeded and the Section Chief, Variances Section, notifies Occidental that the requirements of the condition have been lifted.

(B) Continue to sample and test for mercury as described in condition (1)(B). Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Alabama. These testing requirements shall be terminated and replaced with the requirements of condition (2)(C), if Occidental provides EPA with analytical and quality control data for thirty consecutive batches of treated KCl-sludge, collected as described in condition (1)(B), demonstrating that the EP leachate levels of mercury are below 0.065 mg/L and the Section Chief, Variances Section, notifies Occidental that the testing in condition (2)(B) may be replaced with (2)(C).

(C) [If the conditions in (2)(B) are satisfied, the testing requirements for mercury in (2)(B) shall be replaced with the following condition]. Collect representative sample from each batch of treated KCl-sludge on a daily basis and composite the grab samples to produce a weekly composite sample. The weekly composite sample, prior to its disposal, must be analyzed for the EP leachate concentration of mercury. Occidental must compile and store on-site for a minimum for three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Alabama.

(3) If under conditions (1) or (2), the EP leachate concentrations for chromium, lead, arsenic, or silver exceed 1.616 mg/L; for barium exceeds 32.3 mg/L; for cadmium or selenium exceed 0.323 mg/L; for mercury exceeds 0.065 mg/L; for nickel exceeds 22.6 mg/L; for cyanide exceeds 22.6 mg/L; or for total reactive cyanide or total reactive sulfide levels exceed 250 mg/kg or 500 mg/kg, respectively, all the waste generated during the week must either be retreated until it meets these levels or managed and disposed of in accordance with subtitle C of RCRA.

(4) Within one week of system start-up, Occidental must notify the Section Chief, Variances Section (see address below) when the full-scale system is on-line and waste treatment has begun. All data obtained through condition (1) and (2) must be submitted to the the Section Chief, Variances Section, PSPD/OSW, (OS–343), U.S. EPA, 401 M Street, SW., Washington, DC 20460 within the time period required in conditions (1) and (2). At the Sections Chief's request, Occidental must submit any other analytical data obtained through conditions (1) or (2) to the above address, within the time period specified by the Section Chief. Failure to submit the required data will be considered by the Agency, sufficient basis to revoke Occidental's exclusion to the extent directed by EPA. All verification data must be accompanied by the following statement:

"Under civil criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code which include, but may not be limited to, 18 U.S.C. 6928): I certify that the information contained in or accompanying this document is true, accurate and complete.

As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of wastes will be void as if its never had affect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliancy on the void exclusion."

Name or Certifying Person

Title of Certifying Person

Date

Condition (2)(A) requires that Occidental collect a minimum of four consecutive weekly composite samples and test for the specified parameters. If any of the delisting levels in condition (3) are exceeded, Occidental must treat the waste generated in that week as hazardous, or retreat until the waste meets these levels. For the reasons noted below, EPA is proposing in condition (2)(A) to terminate the testing and reporting requirements of condition (1)(A) if data from four consecutive weekly composite samples meet the delisting levels.

The Agency has determined through its review of similar petitions that approximately four weeks are required for a facility to train operators and collect sufficient data to verify that the full-scale treatment process is operating correctly. If Occidental needs more than four weeks to bring its full-scale treatment process up to specifications in

order to meet the delisting levels of condition (3), the terms of condition (2)(A) require that Occidental continue weekly testing until data from four consecutive weekly samples meet the delisting levels.

Second, the termination of the sampling and reporting requirements of condition (2)(A) after four consecutive weekly composite samples meet the delisting levels of condition (3), is consistent with past Agency practice of requiring the testing of a minimum of four representative samples for continuously generated wastes, if those wastes are well mixed and uniformly produced. See "Petitions to Delist Hazardous Wastes—A Guidance Manual" U.S. EPA Office of Solid Waste, (EPA/530–SW–003–85), April 1985.

Lastly, based on the laboratory-scale data submitted by Occidental, the Agency believes that consistently non-hazardous levels of the EP toxic metals (except mercury), nickel, cyanide, reactive sulfide and reactive cyanide can be generated from Occidental's K071 treatment process. Thus, the Agency believes that, in this case, a requirement for continued testing for parameters other than mercury (after four consecutive weekly composite samples meet the delisting levels of conditions (3)), would be excessive. The continued testing requirement for mercury is discussed further below.

With regard to the continued testing for mercury, the Agency believes that the total mercury concentration of the treated waste may vary, as noted earlier, depending on the amount of constituent precipitation which occurs during treatment. The Agency realizes that the presence of significant mercury concentrations in K071 wastes was one of the reasons for listing K071 wastes as "T" (toxic) wastes. See 40 CFR 261.11(a)(3)(ii) and "Background Document, Resource Conservation and Recovery Act, Subtitle C, Hazardous Waste Management, Section 3001, Identification and Listing of Hazardous Waste," 1980. The Agency however, believes that the data presented in the Background Document characterize the physical/chemical nature of mercury contaminated mercury brine muds (such as untreated KCl-sludge), and these data are not representative of the physical/chemical nature of Occidental's treated KCl-sludge.

The Agency has incorporated a reduction in mercury testing to be implemented once Occidental meets the delisting limit for mercury in thirty consecutive batches. The Agency believes that the reduction in the frequency of analysis from daily to weekly composites will provide sufficient protection to human health and the environment, once it has been established that the treatment system can render the waste non-hazardous with regard to mercury content.

As noted earlier, this waste will be disposed in a municipal landfill, where soil conditions would be mildly acidic. The Agency believes the EP test is the most appropriate analytical tool to evaluate the potential leachability of this waste in an acidic environment. For this waste, EPA believes that continued evaluation of the EP leachable concentrations as required by the conditions of this exclusion will be adequate to protect human health and the environment. Furthermore, the Agency has not developed a health-based delisting criteria for evaluating the total constituent concentration of mercury. Therefore, EPA proposed to require Occidental to continually monitor for the levels of mercury in the EP leachate, rather than the total mercury in the Waste itself.

Future upfront delisting proposals and final decisions issued by the Agency may include different testing and reporting requirements based on an evaluation of the uniformity of the process and of the waste, of the waste volume (including whether there is a fixed volume of waste or it is continuously generated), and of other factors normally considered in the petition review process. For example, wastes with variable constituents concentrations, discussed in previous delisting decision (*e.g.*, see 51 FR 41323, November 14, 1986) may require continuous batch testing. The inclusion of conditions for continued mercury testing in today's proposal is due to possible variations in mercury concentration in the treated waste.

If made final, the proposed exclusion will apply only to the processes covered by the original demonstration as certified by Occidental. The facility would require a new exclusion if either its manufacturing or treatment processes are significantly altered such that an adverse change in waste composition or increase in waste volume occurred. Accordingly, the facility would need to file a new petition for the altered waste. The facility must treat waste generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition would be relieved from subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Effective Date

This rule, if promulgated, will become effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six month period to come into compliance. That is the case here, because this rule, if promulgated, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this exclusion should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant an exclusion is not major, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous. There is no additional impact, therefore, due to today's rule. This proposal is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which

describes the impact of the rule on small entitles (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. Law 96–511, 44 U.S.C. Chapter 35) and have been assigned OMB Control Number 2050–0053.

VII. List of Subjects in 40 CFR Part 261

Hazardous Materials, Waste treatment and disposal, Recycling.

Dated: September 5, 1989.

Jeffery D. Denit,
Deputy Director Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. secs. 6905, 6912(a), 6921, and 6922].

2. In Table 2 of Appendix IX, add the following wastestream in alphabetical order:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
•	•	• • • • • • •
Occidental Chemical Corporation.	Mobile, Alabama.	Treated potassium chloride brine sludge generated from the mercury cell process in chlorine production (EPA Hazardous Waste No. K071) after [insert date of final exclusion notice]. This exclusion is conditional upon the submission of data from Occidental's full-scale treatment system because Occidental's original data were based on a laboratory-scale treatment system. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern once the full-scale treatment facility is in operation, Occidental must implement a testing program. All sampling and analyses (including quality control procedures) must be performed according to SW–846 procedures. This testing program must meet the following conditions for the exclusion to be valid: (1) Initial Testing: During the first four weeks of full-scale treatment system operation, Occidental must do the following: (A) Collect representative grab samples from every batch of treated KCl-sludge on a daily basis and composite the samples to produce a weekly composite sample. The weekly composite samples, prior to disposal, must be analyzed for the EP leachate concentrations of all the EP toxic metals (except mercury), nickel, and cyanide (using deionized water instead of acetic acid in the cyanide extraction), and the total constituent concentrations of reactive sulfide and reactive cyanide. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Alabama. These testing requirements shall be terminated by EPA when the results of four consecutive weekly composite sample of the petitioned waste, obtained from either the initial testing or subsequent testing, show the maximum allowable levels in condition (3) are not exceeded and the Section Chief, Variances Section, notifies Occidental that the requirements of the condition have been lifted. (B) Continue to sample and test for mercury as described in condition (1)(B). Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Alabama. These testing requirements shall be terminated and replaced with the requirements of condition (2)(C), if Occidental provide EPA with analytical and quality control data for thirty consecutive batches of treated KCl-sludge, collected as described in condition (1)(B), demonstrating that the EP leachate levels of mercury are below 0.065 mg/L and the Section Chief, Variances Section, notifies Occidental that the testing in condition (2)(B) may be replaced with (2)(C). (C) [If the conditions in (2)(B) are satisfied, the testing requirements for mercury in (2)(B) shall be replaced with the following condition]. Collect representative grab samples on a daily basis and composite the samples to form a weekly composite. The weekly samples, prior to disposal, must be analyzed for EP leachate concentration of mercury. Occidental must compile and store on-site for a minimum for three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Alabama. (3) If under condition (1) or (2), the EP leachate concentrations for chromium, lead, arsenic, or silver exceed 1.616 mg/L; for barium exceeds 32.3 mg/L; for cadmium or selenium exceed 0.323 mg/L; for nickel exceeds 22.6 mg/L; for cyanide exceeds 22.6 mg/L; or for total reactive cyanide or total reactive sulfide levels exceed 250 mg/kg or 500 mg/kg, respectively, all the waste generated during the week must either be retreated until it meets these levels or managed and disposed of in accordance with subtitle C of RCRA. (4) Within one week of system start-up, Occidental must notify the Section Chief, Variances Section (see address below) when the full-scale system is on-line and waste treatment has begun. All data obtained through conditions (1) and (2) must be submitted to the Section Chief, Variances Section, PSPD/OSW, (OS–343), U.S. EPA, 401 M Street, SW., Washington, DC 20460 within the time period required in conditions (1) and (2). At the Section Chief's request, Occidental must submit any other analytical data obtained through condition (1) or (2) to the above address, within the time period specified by the Section Chief. Failure to submit the required data will be considered by the Agency, sufficient basis to revoke Occidental's exclusion to the extent directed by EPA. All verification data must be accompanied by the following statement: "Under civil criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code which include, but may not be limited to, 18 U.S.C. Section 6928): I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personnally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of wastes will be void as if its never had affect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliancy on the void exclusion."
*	*	* * * * * *

[FR Doc. 89-21963 Filed 9-18-89; 8:45 am]
BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 54, No. 180
Tuesday, September 19, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Distribution Program—Value of Donated Foods From July 1, 1989 to June 30, 1990 and Cash-in-Lieu of Commodities

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the value of donated foods, or where applicable, cash in lieu thereof to be provided in the 1990 school year for each lunch served by schools participating in the National School Lunch Program (NSLP) or by commodity schools and for each lunch and supper served by institutions participating in the Child Care Food Program.

This notice also announces that the value of agricultural commodities and other foods provided to States during the past school year met the level of assistance authorized under the National School Lunch Act. Thus, there will be no shortfall cash payments to States for the NSLP for the 1989 school year. The annually programmed level of assistance was met in food donations by June 30, 1989.

EFFECTIVE DATE: July 1, 1989.

FOR FURTHER INFORMATION CONTACT: Susan Proden, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302 or telephone (703) 756–3660.

SUPPLEMENTAL INFORMATION:

Classification

These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.550, 10.555, 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

National Average Minimum Value of Donated Foods for the Period July 1, 1989 Through June 30, 1990

This notice implements mandatory provisions of sections 6(e), 14(f) and 17(h) of the National School Lunch Act (the Act) (42 U.S.C. 1755(e), 1762a(f), and 1766(h)). Section 6(e) of the Act establishes the national average value of donated food assistance to be given to States for each lunch served in NSLP at 11.00 cents per meal. This amount is subject to annual adjustments as of July 1 of each year to reflect changes in the Price Index for Food Used in Schools and Institutions. Section 17(h) of the Act provides that the same value of assistance in donated foods for school lunches shall also be established for lunches and suppers served in the Child Care Food Program. Notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under NSLP (7 CFR part 210) and per lunch and supper under the Child Care Food Program (7 CFR part 226) shall be 13.25 cents for the period July 1, 1989 through June 30, 1990.

The Price Index for Food Used in Schools and Institutions is computed on the basis of five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oil). Each component is weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month simple average value of this Price Index for March, April and May. The three-month average of the Price Index increased by 6.5 percent from 108.54 for March, April and May of 1988 to 115.56 for the same three-months in 1989. When computed on the basis of unrounded data and rounded to the nearest one-quarter cent, the resulting national average for the period July 1, 1989 through June 30, 1990 will be 13.25 cents per meal. This constitutes a one cent per lunch increase over the rate in effect for the 1989 school year.

Section 14(f) of the Act provides that commodity schools shall be eligible to receive donated foods equal in value to the sum of the national average value of donated foods established under section 6(e) of the Act and the national average payment established under section 4 of the Act. Such schools are eligible to receive up to 5 cents of this value in cash for processing and handling expenses related to the use of such foods.

Commodity schools are defined in section 12(d)(7) of the Act as "schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs."

For the 1990 school yer, commodity schools shall be eligible to receive donated-food assistance valued at 28.00 cents for each lunch served. This amount is based on the sum of the section 6(e) level of assistance announced in this notice and the adjusted section 4 minimum national average payment factor for school year 1990. The section 4 factor for commodity schools does not include the two cents per lunch increase for schools where 60 percent of the lunches were served in the second preceding year free or at reduced prices, since that increase is applicable only to schools participating in the National School Lunch Program.

Cash in Lieu Payments—Value of Donated Commodities for School Year 1988–89

Section 6(b) of the Act, as amended, (42 U.S.C. 1755(b)) and the regulations governing cash in lieu of donated foods (7 CFR part 240) require the Secretary of Agriculture by June 1 of each school year to estimate the value of agricultural commodities and other foods that will be delivered to States during that school

year. Under the food distribution regulations (7 CFR part 250), these foods are used by schools participating in NSLP. If the estimated value is less than the total level of commodity assistance authorized under section 6(e) of the Act, the Secretary is required by July 1 of that school year to pay to each State educational agency funds equal to the difference between the value of programmed deliveries and the total level of authorized assistance for each State.

During the past school year the adjusted minimum national average value of donated foods or payments of cash in lieu thereof per lunch was 12.25 cents.

In accordance with section 6(e) of the Act, the mandated level of commodity assistance was $487,305,456 for school year 1989. The Secretary has determined that at least that amount was available for delivery nationally by June 30, 1989 to meet the mandated level of assistance.

Notice is hereby given, therefore, that no shortfall cash payments will be made for the school year ending June 30, 1989.

Dated: September 8, 1989.

George A. Braley,

Acting Administrator.

[FR Doc. 89-22028 Filed 9-18-89; 8:45 am]

BILLING CODE 3410-30-M

Packers and Stockyards Administration

Proposed Posting of Stockyards

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 301 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

AL-178	South Alabama Livestock, Inc., Brundidge, Alabama.
AL-179	Circle J. Horse Auction, Bryant, Alabama.
CA-182	California Livestock Commission Co., Inc., San Jancinto Yard, San Jancinto, California.
GA-203	Circle J. Farm, Calhoun, Georgia.
GA-204	Dodge County Stockyard, Inc., Eastman, Georgia.
LA-141	Louisiana Livestock Sales & Services, Campti, Louisiana.
LA-142	Mouiller Livestock Auction, Mamou, Louisiana.
MN-187	Kitty Kruse Auction Service, Milaca, Minnesota.
MS-164	Kosciusko Livestock Sales, Inc., Kosciusko, Mississippi.
MO-267	Tri-County Dairy Marketing Company, Conway, Missouri.
MT-121	Robbins Livestock Auction Co., Missoula, Montana.
NE-192	Pleasant Valley Livestock Auction, Hartington, Nebraska.
NY-168	Kennedy's Circle K Comm. Auction, Hudson Falls, New York.
NY-169	Bauer Horse & Tack Auction, Lyons, New York.
NY-170	Homestead Auction, Milford, New York.
NC-161	Mount Olive Livestock Market, Inc., Faison, North Carolina.
OK-205	Cattleman's Livestock Auction, Inc., Ardmore, Oklahoma.
OK-206	Caddo Livestock Auction, Caddo, Oklahoma.
OK-207	OKC West Livestock Market, Inc., El Reno, Oklahoma.
OK-208	Tahlequah Livestock Auction, Inc., Tahlequah, Oklahoma.
OK-209	Pierce Commission Company, Welch, Oklahoma.
PA-154	Union City Livestock Market, Inc., Union City, Pennsylvania.
PA-155	John D. Whiting Auction, New Wilmington, Pennsylvania.
SC-145	Southeastern Livestock Center, Campobello, South Carolina.
SC-146	Intercoastal Auction Barn, Conway, South Carolina.
SC-147	H & H Livestock, Seneca, South Carolina.
SC-148	Holder's Auction, Six Mile, South Carolina.
SD-170	Platte Livestock Market, Inc., Platte, South Dakota.
TX-338	Houston County Livestock Auction, Inc., Crockett, Texas.

Notice is hereby given that pursuant to authority under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Packers and Stockyards Administration, Room 3408—South Building, U.S. States Department of Agriculture, Washington, DC 20250 by October 3, 1989.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, DC, this 13th day of September 1989.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 89-22059 Filed 9-18-89; 8:45 am]

BILLING CODE 3410-20-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-045]

Steel Wire Rope from Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 1, 1988, the Department of Commerce published the preliminary results of its administrative review of steel wire rope from Japan. The review covers one exporter of this merchandise to the United States and consecutive periods from January 1, 1974 through September 30, 1985.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, our final results are changed from those presented in the preliminary results of review.

EFFECTIVE DATE: September 19, 1989.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Phyllis Derrick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4195/2923.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 44053) the preliminary results of its administrative review of the antidumping finding on steel wire rope from Japan (38 FR 28571, October 15, 1973). We note a typographical error in that notice. The periods covered in the preliminary results of review were (1) January 1, 1974 through March 31, 1978, (2) April 1, 1978 through September 30, 1980, (3) October 1, 1980 through September 30, 1982 and (4) October 1, 1982 through September 30, 1985. We have now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act"). The substantive provisions of the Antidumping Act of 1921 and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

The United States has developed a system of tariff classification based on

the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of steel wire rope, except brass electroplated steel truck tire cord of cable construction specifically packaged for protection against moisture and atmosphere. During the period of review such merchandise was classifiable under item numbers 642.1200, 642.1400,642.1500, 642.1600 and 642.1700 of the *Tariff Schedules of the United States Annotated.* This merchandise is currently classifiable under HTS item numbers 73.12.1060, 73.12.1080, 73.12.1090 and 73.12.0050. The HTS item numbers are provided for convenience and Customs Service purposes. The written description remains dispositive. The review covers one exporter and the period January 1, 1974 through September 30, 1985.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received comments from Mitsui & Co., Ltd. ("Mitsui"), the respondent, and the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers ("the Committee"), the petitioner.

Comment 1: In our preliminary results of review, we stated that Mitsui failed to respond to the Department's request for additional information for the period January 1, 1974 through April 30, 1978. Mitsui objects to this assertion. Mitsui does not contest, however, the Department's use of best information available ("BIA") for this period or object to the BIA rate chosen by the Department in the preliminary results of review. Mitsui acknowledges that much of the information required by the Department to complete its review is missing.

Mitsui notes, however, that it responded to the Department's original requests for information for the January 1, 1974 through March 31, 1978 period, and that the Department verified Mitsui's original submissions. Mitsui further notes that eight to twelve years have elapsed between Mitsui's filing of these submissions and the Department's request for additional information. Mitsui argues that in its final results of review the Department should make it clear that the lack of information concerning the January 1, 1974 through March 31, 1978 period is due to the delays that have occurred in this case with the result that the data no longer exists, and not to a failure of Mitsui to respond to the Department's request for additional information.

Department's Position: While we do not question Mitsui's desire to cooperate with this review, we have determined that the additional data was necessary to analyze these periods. Lacking this information, we have applied the best information available.

Comment 2: The Committee objects to the Department's calculation of a zero percent margin for all of Mitsui's April 1, 1978 through September 30, 1980 sales. The Committee notes that this contradicts a previously published final results of review notice (47 FR 3395, January 25, 1982) which showed margins ranging up to 3.81 for certain manufacturer/exporter combinations involving Mitsui. The Committee argues that the Department should amend its final results of review so as to be consistent with the previously published margins for Mitsui.

Department's Position: We agree that for the period April 1, 1978 through September 30, 1980, the January 25, 1982 final results of review are controlling. Thus, we will liquidate these Mitsui sales in accordance with those final results.

Final Results of Review

Based on our analysis of the comments received, we have changed our results from those presented in our preliminary analysis and determined that the following margins exist:

Exporter	Time period	Margin (percent)
Mitsui	01/01/74–03/31/78	9.68
	04/01/78–09/30/80	([1])
	10/01/80–09/30/82	0
	10/01/82–09/30/85	[2] 0

[1] See 47 FR 3395.
[2] No shipments during the period; margin from last period in which there were shipments.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. Individual differences between United States price and foreign market value may vary from the percentages stated above. Further as provided for by section 751(a)(1) of the Tariff Act, the Department shall not require a cash deposit of estimated antidumping duties for Mitsui. For any shipments from the remaining manufacturers and exporters not covered by this review the cash deposit will continue to be at the latest rate applicable for those firms (54 FR 6737, February 14, 1989). For any entries of this merchandise by a new firm whose first shipment occurred after September 30, 1984, the cash deposit will continue to be zero percent. These cash deposit requirements are effective for all shipments of Japanese steel wire rope, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Department's Regulations published in the **Federal Register** on May 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22).

Dated: September 12, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89–22100 Filed 9–18–89; 8:45 am]
BILLING CODE 3510–DS–M

Short-Supply Determination on Certain Oil Well Casing

AGENCY: Import Administration/ International Trade Administration, Commerce.

SUMMARY: The Department of Commerce has determined that 128 net tons of certain proprietary grade S–90 16 inch seamless oil well casing is in short supply in the U.S. market during August–September 1989.

EFFECTIVE DATE: September 13, 1989.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377–0159.

SUPPLEMENTARY INFORMATION:

Case History

On July 28, 1989, the Department received a complete short-supply request from Southwest Supply Company (SWS) for the following quantities and grades of seamless oil well casing in R–3 lengths for delivery in the third quarter of 1989: (a) 400 net tons of American Petroleum Institute grade L–80 casing with an outside diameter of 10¾ inches and weighing 60.70 pounds per foot; and (b) 128 net tons of proprietary grade S–90 casing with an outside diameter of 16 inches and weighing 84.00 pounds per foot. This

request for the L–80 material was made under Paragraph 8 of the U.S.-Japan steel trade arrangement and the request for the S–90 material was made under Article 8 of the U.S.-European Communities (EC) steel trade arrangement. SWS requested short supply for this material to meet its needs, claiming that no mill in the United States is capable of producing seamless alloy casing in the diameters SWS requires.

Action

The Department established a public file on this short-supply request (Case Number 181) on August 7, 1989 in the Central Records Unit, Room B–099, Import Administration, U.S. Department of Commerce at the above address. On August 16, 1989, the Department published a notice in the Federal Register announcing its review of this request, with the closing date for comments August 28, 1989. The Department also sent questionnaires to three potential U.S. producers of this casing (Lone Star Technologies, USX, and CF&I). The Department received responses from all three companies and no comments to the Federal Register notice.

Questionnaire Responses

USX and CF&I both indicated that they produce seamless oil well casing, but have limitations on the sizes and grades of material they presently can produce and supply.

USX indicated that it could produce, within a normal order-to-delivery period, all the L–80 casing sought by SWS, but cannot supply the S–90 material with a 16 inch diameter. SWS did not dispute USX's ability to supply the L–80 material. CF&I cannot supply either grade of material in the noted sizes. Lone Star cannot produce seamless oil well casing, but can produce welded casing in the noted grades and sizes. Lone Star does not question the need for seamless casing if SWS's customer(s) want a seamless product.

Conclusion

Based on information supplied by all interested parties, a condition of short supply exists for the 128 tons of seamless 16 inch S–90 oil well casing subject to this review. This product is not available domestically. However, the 400 net tons of seamless 10¾ inch L–80 material is available from domestic suppliers within a normal order-to-delivery period to meet SWS's needs.

Dated: September 13, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89–22101 Filed 9–18–89; 8:45 am]

BILLING CODE 3510-DS-M

Applications; for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 89–212. *Applicant:* University of California at San Diego, Marine Physical Laboratory, Scripps Institution of Oceanography, Mail Code A–013, La Jolla, CA 92093–0213. *Instrument:* Heave Compensator, Model Hippy 120, Version B. *Manufacturer:* Datawell bv, The Netherlands. *Intended Use:* The instrument, which mesures the pitch and roll of a platform in real time, will be used to define an oceangoing meteorological buoy's long term dynamic response to various sea states and provide a real time correction of said response to the meteorological sensors on the buoy. *Application Received by Commissioner of Customs:* August 15, 1989.

Docket Number: 89–213. *Applicant:* University of Alabama, P.O. Box 870130, Tuscaloosa, AL 35487. *Instrument:* Electron Microscope, Model H–8000. *Manufacturer:* Hitachi, Japan. *Intended Use:* The instrument will be used for research of the following:

(1) Magnetic properties of iron nitride thin films

(2) Process technology of high temperature superconductor and superconductor oxide/metal matrix composites

(3) Corrosion behavior of CoCr magnetic recording media

(4) The role of passive surface films on corrosion fatigue crack initiation

(5) Crystallization of amorphous thin films.

In addition, the instrument will be used for educational purposes in various engineering courses. *Application Received by Commissioner of Customs:* August 15, 1989.

Docket Number: 89–128. *Applicant:* Atlantic Marine Center, NOAA, 439 West York Street, Norfolk, VA 23510. *Instrument:* Analytical Stereoplotter, Model AS 11PA3 (S/N 1002). *Manufacturer:* Ottico Meccanica Italiana, Italy. *Intended Use:* The instrument will be used for studies of unclassified mapping photographs covering the shoreline and airports of the United States and its possessions to obtain mapping and charting information. *Application Received by Commissioner of Customs:* April 6, 1989.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–22102 Filed 9–18–89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Revised Meeting Notice

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The agenda previously published in the Federal Register (54 FR 37143–37144) for a public meeting on September 24–29, 1989, at the Sheraton Hotel in Anchorage, AK, of the North Pacific Fishery Management Council and other Council advisory groups has been revised. With the exception of the following, all other information originally published remains unchanged.

Added Agenda Item

During its September 26–29, 1989, meeting in Anchorage, AK, the North Pacific Fishery Management Council will consider alternatives for allocating groundfish fisheries resources between inshore and offshore components of the industry. The Council will review the preliminary legal analysis provided by the National Oceanic and Atmospheric Administration, Office of General Counsel, and receive a report from the Fishery Planning Committee on the definition of the problem and alternative solutions, as well as a schedule for resolving the issue.

The Fishery Management Committee will recommend that the Council adopt formal alternatives at its September meeting, commence analysis in October, and consider taking action in April 1990 to send the resulting amendment package out for public review. Final action would be scheduled for June 1990, with the expectation that any proposed changes to the fishery would be implemented for 1991. The Committee's

intent is that the Council could change this schedule at any time. If the Council adopts this schedule, it will need to review in September all proposals addressing the inshore/offshore allocations issue. Therefore, though groundfish management proposals for the 1990 amendment cycle are not due until October 2, those that deal specifically with inshore/offshore allocations should be submitted by September 27 when Agenda Item C–8 is considered. Any proposals that were submitted for the June Council meeting need not be resubmitted. Questions on this agenda item may be directed to Clarence Pautzke at (907) 271–2809.

Meeting Cancellation/Additions

1. The meeting of the Halibut Management Team previously scheduled for September 24 at 1:30 p.m. has been cancelled.

2. A meeting of the Fishery Planning Committee has been scheduled for September 25 at 1:30 p.m.

3. A meeting of the Data Gathering Committee has been scheduled for September 25 at 7 p.m.

For more information contact the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809.

Dated: September 13, 1989.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89–22063 Filed 9–18–89; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Anchovy Advisory Subpanel will hold a public meeting on October 13, 1989, at 1 p.m., at the California Department of Fish and Game, Marine Resources Region, 330 Golden Shore, Suite 50, Long Beach, CA. The Subpanel will review progress of the Anchovy Plan Development Team on an amendment to the fishery management plan which would provide for a minimal reduction fishery under specified conditions.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 326–6352.

Dated: September 13, 1989.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89–22064 Filed 9–18–89; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Department of the Army

Compliance With the National Environmental Policy Act; Intent To Prepare Supplement to Environmental Impact Statement and Initiate a Public Scoping Process

Notice of Intent to prepare a Supplement to the Environmental Impact Statement (SEIS) for the Johnston Atoll Chemical Agent Disposal System (JACADS) and to initiate the public scoping process for the handling, storage and ultimate destruction of the U.S. Army's European stockpile of chemical agents and munitions at Johnston Atoll.

AGENCY: Department of the Army, DOD.

ACTION: Notice of intent.

SUMMARY: This announces the Notice of Intent to prepare a SEIS on the potential impact of the on-island handling, storage and ultimate disposal of the U.S. Army's European stockpile of chemical agents and munitions at facilities located on Johnston Atoll in the Pacific Ocean. These agents and munitions would be disposed of by incineration at the existing JACADS, the construction and operational impacts of which were addressed in an EIS issued in 1983. This SEIS will supplement the original 1983 JACADS EIS by evaluating potential incremental environmental impacts from handling, storage and disposal of the additional agents and munitions. The "no action" alternative is considered to be continued storage of the European stockpile at Johnston Atoll. The European/Johnston Atoll activity is planned for the 1990 to 1992 timeframe. In a related action, the movement of the munitions from Europe to Johnston Atoll will be addressed in an environmental review completed under the provisions of Executive Order 12114.

SUPPLEMENTARY INFORMATION: Movement of the chemical munitions within Europe will be completed under the auspices of the host nation. Under the provisions of Executive Order 12114, ocean transportation of the European stockpile will be addressed in a separate environmental review that will assess the potential impact to the "Global Commons." Specific information regarding time schedules, exact movement routes, and type and number of vessels will be classified for operational security reasons. The remaining information, except the number and type of munitions being moved, will be unclassified.

Scoping Process: Comments received as a result of this notice will be used to assist the Army identifying potential impacts to the quality of the environment. Public, as well as Federal, State of Hawaii and Pacific Island Federations input is desired. If comments are substantial, a public meeting will be scheduled. Comments can be made during the entire NEPA process to the address below.

FOR FURTHER INFORMATION CONTACT: Office of the Program Manager for Chemical Demilitarization, ATTN: SAIL–PMM (COL Carestia), Aberdeen Proving Ground, Maryland 21010–5401. Individuals desiring to be placed on a mailing list to receive additional information on the public scoping process and copies of the draft and final SEIS's should contact COL Carestia at the above address.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA (I&L).

[FR Doc. 89–22054 Filed 9–18–89; 8:45 am]

BILLING CODE 3710–08–M

Board of Visitors, United States Military Academy, Open Meeting

In accordance with section 10(a)(20) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.

Dates of Meeting: 26–29 October 1989.

Place of Meeting: West Point, New York.

Start Time of Meeting: 9:00 A.M., 26 October 1989.

Proposed Agenda: Briefings on: Price/Cost/Worth of West Point; Value Oriented Attitudes of Graduates; Value of Commissioning Sources; West Point Admission Criteria; Middle States Accreditation and update on Summary Honor Reviews.

All proceedings are open. For further information, contact Lieutenant Colonel Robert N. Currey, United States Military Academy, West Point, NY 10996–5000, (914) 938–3301.

For the Chairman of the Board of Visitors.

Robert M. Currey,

Lieutenant Colonel, U.S. Army Executive Secretary, USMA Board of Visitors.

[FR Doc. 89–22049 Filed 9–18–89; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by October 6, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Eduction, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice with attached proposed information collection requests prior to submission of these requests to OMB. For each proposed information collection request, grouped by office, this notice contains the following information: (1) Type of review requested, e.g., new, revision, extension, existing, or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting and/or Recordkeeping burden and (6) Abstract. Because an expedited review is requested, the information collection request is also included as an attachment to this notice.

Dated: September 13, 1989.

Carlos U. Rice,

Director for Office of Information Resources Management.

Office of Educational Research and Improvement

Type of Review: Expedited

Title: Collection of Information on Student Transition Patterns Between Eighth and Tenth Grades

Abstract: The data collected will be used by the Department to determine the feasibility of using school supplied student flow information (from eighth to tenth grade schools) to derive transitional probabilities. The eighth grade schools chosen would be identified by tenth grade schools as feeder schools.

Additional Information: An expedited review is requested because the preliminary data collection efforts for NELS:88 first follow-up have already begun and the above information (student flow), will have design ramifications and will help determine which schools are selected for both the full scale data collection and a special "school effects" augmentation that is being considered. Allowing for the normal review period would not provide the Department with adequate time to make an informed decision on the advisability of modifying the current NELS:88 design.

Frequency: One time

Affected Public: State or local government; Non-profit institutions

Reporting Burden:

Responses: 240

Burden Hours: 24

Recordkeeping Burden:

Recordkeepers: 24

Burden Hours: 24

BILLING CODE 4000-01-M

Rev. 7/19/89

PHONE SCRIPT FOR TENTH GRADE SCHOOLS

BURDEN STATEMENT: It is estimated that answering these questions will require ten minutes for each tenth grade school official.

Ask to speak to Guidance Counselors or Testing Coordinators. If they are not available, ask to speak with the principal.

Hello, my name is _____ from NORC, a social science research center at the University of Chicago. I am working on the First Follow-Up of the National Education Longitudinal Study (NELS:88). This is a study sponsored by the U.S. Department of Education. Although your school was not involved in the initial study, we need to collect some additional information to refine our statistical estimates. I would like to ask you a few questions about the eighth grade schools that sent students to your school at the beginning of the 1988-89 school year.

1. In 1988-89, what was the total number of tenth grade students in your school?

2. From which eighth grade schools did you receive students? We would like to know about all possible schools.

3. About what proportion of the eighth grade class came from each school? If you don't know the exact proportion, please give your best estimate.

   (Interviewer: If the school official would rather give numbers, record the number and not the percent. If he or she does not know some of the school names and does not want to look them up, ask about how many students or what percentage came from each unnamed school or all the unnamed schools together. Write Unnamed School(s) for the School Name.)

4. (if possible) What are the phone numbers of these schools?

Thank you very much for your time and cooperation.

FORM TO ACCOMPANY CALL TO TENTH GRADE SCHOOL

1. Total number of tenth grade students:

|_|_|_| students

2. Names of eighth grade schools, proportion of students, phone numbers:

NAME OF SCHOOL _____ % of students or N of students |_|_|_| % |_|_|_|_|_|

PHONE _____

NAME OF SCHOOL _____ % of students or N of students |_|_|_| % |_|_|_|_|_|

PHONE _____

NAME OF SCHOOL _____ % of students or N of students |_|_|_| % |_|_|_|_|_|

PHONE _____

NAME OF SCHOOL _____ % of students or N of students |_|_|_| % |_|_|_|_|_|

PHONE _____

TOTAL |1|0|0| % |_|_|_|_|_|

PHONE SCRIPT FOR EIGHTH GRADE SCHOOLS ASSOCIATED WITH EACH TENTH GRADE SCHOOL

BURDEN STATEMENT: It is estimated that answering these questions will require five minutes for each eighth grade school official.

Ask to speak to Guidance Counselors or Testing Coordinators. If they are not available, ask to speak with the principal.

Hello, my name is _____ from NORC, a social science research center at the University of Chicago. I am working on the First Follow-Up of the National Education Longitudinal Study (NELS:88). This study is sponsored by the U.S. Department of Education. Although your school was not involved in this study, we need to collect some additional information to refine our statistical estimates. I would like to ask you a few questions about the eighth grade class in 1987-88.

1. How many eighth grade students were enrolled in your school in 1987-88?

2. If your school had been asked to participate in a national study that required students to complete a cognitive test during that year, what proportion of students would have been declared INELIGIBLE due to lack of language proficiency, mental incapacity, physical incapacity, chronic truancy, or other reasons?

3. Thinking about the ELIGIBLE students (all others), what proportion do you think would have been Hispanic?

   (Interviewer: If the respondent prefers to report number, record it in proper box.)

4. What proportion of the ELIGIBLE students (all others) would have been Asian/Pacific Islander?

5. What proportion of the ELIGIBLE students would have been all other students? (Answers to 3, 4, and 5 should add to 100%.)

   Thank you very much for your time and cooperation.

FORM TO ACCOMPANY CALL TO EIGHTH GRADE SCHOOLS

1. Number of eighth grade students enrolled in 1987-88 school year:

   |_|_|_|_| students

2. Proportion or number of INELIGIBLE students:

   |_|_|_| % or |_|_|_|_|_| #

3. Of the ELIGIBLE students, proportion or number who were Hispanic:

   |_|_|_| % or |_|_|_|_|_| #

4. Of the ELIGIBLE students, proportion or number who were Asian/Pacific Islanders:

   |_|_|_| % or |_|_|_|_|_| #

5. Of the ELIGIBLE students, proportion or number who were all other students:

   |_|_|_| % or |_|_|_|_|_| #

[FR Doc. 89-22061 Filed 9-18-89; 8:45 am]

BILLING CODE 4000-01-C

Office of the Secretary

Regional Strategy Meetings on Choice in Education

AGENCY: Department of Education.

ACTION: Notice of regional strategy meetings on choice in education.

SUMMARY: The Secretary will convene five regional meetings on expanding educational choice in States and communities, and to provide practical information on framing educational choice plans in States, districts, and communities. These meetings are open to the public and will include Governors, legislators, parents, school board members, State and local education officials, business leaders, teachers, students, and other concerned citizens.

Meeting information: The regional meetings are scheduled to be held as follows:

October 15–16; New York, NY, at Public School 117 and Manhattan Center School

October 23–24; Minneapolis/St. Paul, MN, at St. Paul Central High School and Minneapolis North Community High School

November 13–14; Charlotte, NC, at West Charlotte High School and Charlotte Radisson Plaza Hotel

November 16–17; Denver, CO, at George Washington School and Registry Hotel

November 28–29; Richmond, CA, at John F. Kennedy High School and Richmond Memorial Auditorium.

Advance registration is required as space is limited. Those who have not pre-registered will be accommodated only if space is available. Each meeting will run from approximately 7 p.m. to 9 p.m. the first day and 9 a.m. to 4:45 p.m. the second day.

FOR FURTHER INFORMATION CONTACT: Persons interest in attending one of these meetings should contact Dr. Linda Varner Mount, Office of the Under Secretary, 400 Maryland Avenue SW., Room 4010, Washington, DC 20202–0875. Telephone: (202) 732–4039.

Authority: 20 U.S.C. 3151.

Dated: September 13, 1989.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 89–22062 Filed 9–18–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Pittsburgh Energy Technology Center Financial Assistance Award; Intent To Award Grant to the Clark Atlanta University

AGENCY: U.S. Department of Energy, Pittsburgh Energy Technology Center.

ACTION: Acceptance of an unsolicited application for grant award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, the Pittsburgh Energy Technology Center intends to award based on an unsolicited action submitted by Clark Atlanta University. The application is entitled "Undergraduate Research Studies Program at Participating Institutions of the Historically Black Colleges and Universities Fossil Energy Consortium." The purpose of this award is to:

A. Attract students into Fossil Energy-related disciplines and provide an initiative to remain in this area and pursue graduate study,

B. Strengthen and develop science and engineering research capabilities related to Fossil Energy at the participating HBCUs,

C. Enlarge the pool of minority scientists and engineers who carry out Fossil Energy research, and

D. Promote cooperative research and training linkages between participating HBCUs and DOE Fossil Energy Technology Centers.

Scope: This intended grant is to assist ten University students to particpate in the following research projects:

1. A Matrix-Isolation FTIR Study for the Thermal Oxidation and Combustion of Thiophene.
2. Surface IR/Raman/MS of Regenerable Flue Gas Cleanup Catalysts.
3. Reactivity of Organo-Sulfur Groups in Coal.
4. Catalysts for Coal Gasification.
5. NMR–NQR Studies of Copper-Cobalt Catalysts Used for Syngas Conversion.
6. Preparation and Utilization of Coal-Water Slurries—Characterization of Boundary Conditions.
7. Catalytic Coal Gasification.
8. Gaseous Phase Surface Modification of Coal.
9. Characterization of Studies of Coal-Derived Liquids.
10. Factors Affecting Vicosity of Coal Liquids.

The total estimtated DOE cost for this grant is $105,116.00.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, Attention: J.R. Owen, P.O. Box 10940, MS 921–165, Pittsburgh, PA 15236, Telephone: (412) 892–5802.

Dated: September 12, 1989.

Gregory J. Kawalkin,

Director, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

[FR Doc. 89–22094 Filed 9–18–89; 8:45 am]

BILLING CODE 6450–01–M

Morgantown Energy Technology Center; Financial Assistance Award to New Mexico Institute of Mining and Technology (Grant)

AGENCY: U.S. Department of Energy (DOE), Morgantown Energy Technology Center.

ACTION: Notice of Acceptance of a Non-Competitive Financial Assistance Application.

SUMMARY: The DOE, Morgantown Energy Technology Center, in accordance with 10 CFR 600.7(b), gives notice of its plans to award a four-year grant to the New Mexico Petroleum Recovery Research Center, New Mexico Institute of Mining and Technology (NMIMT), Soccorro, NM 87801 in the amount of $4,000,000 on a 50/50 cost-shared basis.

The DOE has determined that restriction to NMIMT is appropriate based upon the following information:

This project is to support the continuation of research being conducted by NMIMT under Cooperative Agreement No. DE–FC21–84MC21136 entitled, "Improvement of CO_2 Flood Performance", which covers the areas of phase behavior and fluid property measurements and flow heterogeneity and mobility control in CO_2 floods. The objectives of the proposed research are to produce quantitative measurements of the influence of CO_2 flood performance for (1) displacement with pure and impure CO_2 and (2) evaluation and improvement of flow uniformity. These experimental investigations and associated analysis and interpretation will foster an understanding of fundamental physical mechanisms which can then serve as a basis for improved performance prediction and optimization of process performance.

The proposed research will overlap by one year the research presently being conducted. This is necessary in order to select, characterize, test and plan the field site and flood design without lost time and effort between completion of the laboratory work and the field verification of the results.

The proposed research has specific relevance to the DOE fossil energy mission to develop technology for providing adequate energy supplies at a reasonable cost. Successful completion of the research could produce an improved method for oil recovery that could lead to an increase in domestic oil production and thus a reduction in U.S. dependence on foreign imports.

In an effort to improve the recovery efficiency and predictability of the CO_2 process for economic oil recovery while utilizing the knowledge and experience NMIMT has gained through their previous involvement in this area, it has been determined that it is appropriate to award this grant to NMIMT on a non-competitive basis.

FOR FURTHER INFORMATION CONTACT: James H. Urbati, I-07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507-0880, Telephone: (304) 291-4089, Procurement Request No. 21-89MC26031.000.

Dated: September 7, 1989.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 89-22095 Filed 9-18-89; 8:45 am]

BILLING CODE 6450-01-M

Award of a Cooperative Agreement, Noncompetitive Financial Assistance

AGENCY: Department of Energy (DOE), Nevada Operations Office.

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: DOE, Nevada Operations Office, announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7(b)(2), it intends to award a cooperative agreement on a noncompetitive basis to the University of Nevada-Reno (UN-R), to facilitate participation in the Yucca Mountain repository program.

The Nuclear Waste Policy Act of 1982 (NWPA) implemented a federal policy decision to concentrate the U.S. Department of Energy (DOE) disposal and research efforts in the development of a mined geologic repository. The Nuclear Waste Policy Amendments Act of 1987 (NWPAA) restricted DOE efforts in site characterization to the Yucca Mountain site in Nevada.

UN-R has been involved since the onset of the repository related work being conducted. The role of UN-R has included work in geology and seismology as well as other areas of concern. UN-R's position in the Nevada academic community creates an environment in which dedicated participation in the current nuclear waste repository process is a logical and necessary accompaniment to the DOE effort.

Project Scope: The following areas chosen for academic pursuit include areas in which DOE has a vital interest and can provide extensive technical assistance as provided for under the NWPA.

- *Exploratory Shaft and Site Characterization* research and documentation activities to include review of documents, laboratory research, and involvement in new or ongoing sub-surface activities.
- *Socioeconomic and Economic Impact Assessment* research to study potential impacts on major sectors of the Nevada economy.

The project period for the cooperative agreement is a five year period expected to begin September 30, 1989. The total estimated cost of this award is $1,625,000 over the five year project period.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Nevada Operations Office, ATTN: Carl P. Gertz, P.O. Box 98518, Las Vegas, NV 89193-8518.

Issued in Las Vegas, Nevada on September 7, 1989.

Robert M. Nelson, Jr.,

Deputy Manager.

[FR Doc. 89-22096 Filed 9-18-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ES89-34-000, et al.]

El Paso Electric Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. El Paso Electric Company

[Docket No. ES89-34-000]

September 6, 1989.

Take notice that on August 31, 1989, El Paso Electric Company ("Company") filed an application with the Federal Energy Regulatory Commission ("Commission"), pursuant to section 204 of the Federal Power Act, seeking authority to issue not more than $270 million of secured long-term debt through the period expiring March 31, 1991. The most likely form of the proposed debt would be first and second mortgage bonds, but other forms of secured debt are possible.

Comment date: September 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Canal Electric Company

[Docket No. ER89-633-000]

September 6, 1989.

Take notice that on September 1, 1989, Canal Electric Company ("Canal") tendered for filing a Power Contract (the "Power Contract") between itself, Cambridge Electric Light Company and Commonwealth Electric Company and an NU Units Capacity Acquisition Commitment (the "Commitment"). The Power Contract implements the terms of the Capacity Acquisition Agreement (FERC Rate Schedule No. 21) and the Commitment. Such Power Contract recognizes the purchase of demand and energy by Canal from Connecticut Light and Power Company, a subsidiary of Northeast Utilities, over the time period November 1, 1989 to October 31, 1994 and the sale of such power to Cambridge Electric Light Company and Commonwealth Electric Company. Canal has requested that the Commission's notice requirements with respect to the Commitment be waived pursuant to section 35.11 of the Commission's regulations in order to allow the Commitment to become effective as of October 31, 1988.

Comment date: September 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Commonwealth Edison Company

[Docket No. ER89-632-000]

September 6, 1989.

Take notice that on August 31, 1989, Commonwealth Edison Company (Edison) tendered for filing Amendment No. 3, dated July 24, 1989, to Interconnection Agreement, dated April 1, 1973, between Edison and Wisconsin Electric Power Company (Wisconsin Electric). Amendment No. 3 changes various rates for coordination energy transactions between the parties.

Edison and Wisconsin Electric request expedited consideration of the filing and an effective date for each rate schedule to be July 24, 1989. Accordingly, Edison and Wisconsin Electric request waiver of the Commission's Notice Requirements to the extent necessary.

Copies of this filing were served upon the Illinois Commerce Commission, the Public Service Commission of Wisconsin and Wisconsin Electric.

Comment date: September 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Union Electric Company

[Docket No. ER84-560-007]

September 8, 1989.

Take notice that on August 21, 1989, Union Electric Company (Union) tendered for filing its compliance filing relating to its revised cost of service pursuant to the Commission's order issued on June 22, 1989.

Comment date: September 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Pennsylvania Power Company

[Docket No. ER89-639-000]

September 8, 1989

Take notice that on September 5, 1989, Pennsylvania Power Company (Penn Power) tendered for filing proposed changes in its FPC Electric Service Tariffs Nos. 30, 31, 32, 33 and 34 to the Pennsylvania boroughs (Boroughs) of New Wilmington, Wampum, Zelienople, Ellwood City and Grove City, respectively. The filing proposes (1) an increase in the fuel adjustment clause; (2) a refund of cancelled nuclear plant and plant held for future use costs; (3) implementation of a new tariff rider relating to the waiver of a billing demand provision; (4) an extension of the availability of an economic development rate; and (5) changes in the availability of interruptible service. The net revenue effect of the proposed changes would decrease annual revenues from jurisdictional sales and service by $11,215 or approximately 0.2%. The decrease is comprised of an increase in the fuel adjustment clause of $34,160 effective May 4, 1989 and a refund of $45,375 annually for each of the next two years beginning September 1, 1989. The new tariff rider (Rider VII) is proposed to waive the Company's 60% demand ratchet billing provision effective April 14, 1989 until December 31, 1992. The Boroughs are not being billed under the waived provision and, therefore, no effect on revenues is anticipated. The availability of the economic Development Rider (Rider III) is proposed to be extended to December 31, 1989. The terms of the interruptible service provision of the tariffs are proposed to be slight modified effective September 2, 1988. Currently no customer has applied for or receives service under these latter two rates.

The five municipal resale customers served by Penn Power entered into settlement agreements effective as of September 1, 1984. These agreements provide that these customers will be charged applicable retail rates as may be in effect during the terms of the agreements. Changes in rates were agreed to become effective as to these resale customers simultaneously with changes approved by the Pennsylvania Public Utility Commission (PA. PUC). All of the proposed changes have been implemented as to Penn Power's retail customers and have been approved by the PA. PUC. These settlement agreements were approved by the Federal Energy Regulatory Commission through a Secretarial letter dated December 14, 1984 in Docket Nos. ER77-277-007 and ER81-779-000. Waivers of certain filing requirements have been requested to implement the rate changes in accordance with the settlement agreements.

Copies of the filing were served upon Penn Power's jurisdictional customers and the PA. PUC.

Comment date: September 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of New Mexico

[Docket No. ER81-187-009]

September 8, 1989

Take notice that on August 23, 1989, Public Service Company of New Mexico (PNM) tendered for filing its refund report in compliance with the Commission's order issued on August 1, 1989 in Docket No. ER81-338-008.

Comment date: September 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Mississippi Power & Light Company

[Docket No. ER89-637-000]

September 8, 1989

Take notice that on August 31, 1989, Mississippi Power & Light Company (MP&L) tendered for filing its revised Notice of Cancellation of three letter agreements between MP&L and Tennessee Valley Authority.

MP&L states that a copy of this filing have been mailed to the Mississippi Public Service Commission and to TVA.

Comment date: September 22, 1989, in accordance with Standard Paragraph E end of this notice.

8. Electric Energy, Inc.

[Docket No. ER89-640-000]

September 8, 1989

Take notice that on September 1, 1989, Electric Energy, Inc. (EEInc.) tendered for filing Modification No. 13 to the Power Contract between EEInc. and the United States Department of Energy (DOE) and a Letter Supplement amending the Power Supply Agreement between EEInc. and its four Sponsoring Companies, Central Illinois Public Service Company (CIPS), Illinois Power Company (IP), Kentucky Utilities Company (KU) and Union Electric Company (UE). EEInc. requests an effective date of September 1, 1989 for each of the agreements and, accordingly, seeks wavier of the notice requirements of the Federal Power Act.

Copies of the filing have been served on DOE, the four Sponsoring Companies and the Illinois Commerce Commission.

Comment date: September 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Northeast Utilities Services Company

[Docket No. ER89-634-000]

September 8, 1989

Take notice that on September 1, 1989, Northeast Utilities Service Company (NUSCO) as agent for the Connecticut Light and Power Company and Western Massachusetts Electric Company (collectively referred to as the NU Companies) tendered for filing a proposed rate schedule with respect to a Transmission Service Agreement, between the NU Companies and Boston Edison Company (BE), dated June 6, 1989.

NUSCO states that this Agreement provides for continuation of service to BE for the transmission of purchases of electric system capacity and associated energy.

NUSCO requests that the Commission waiver its filing requirements to the extent necessary to permit the rate schedule to become effective as of November 1, 1989.

NUSCO states that copies of the appropriate rate schedules have been mailed to BE.

Comment date: September 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Northern States Power Company (Minnesota) Northwestern States Power Company (Wisconsin)

[Docket No. ER89-635-000]

September 8, 1989

Take notice that Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) on September 1, 1989, tendered for filing rate schedule supplements effecting the refund of charges for wholesale service attributable to Northern States Power Company (Minnesota)'s current expensing of spare repair parts rather than capitalizing or inventorying the parts. The amount of Northern States Power Company (Minnesota)'s refund to its subsidiary, Northern States Power Company (Wisconsin) is $2,732,914 and to its 19 non-affiliated wholesale customers is $477,573. Of the $2,732,914 refunded to the subsidiary, $345,898 in

turn is refunded by the subsidiary to its 15 non-affiliated wholesale customers. The requested effective date for the filed supplements is October 1, 1989.

The filing has been served upon the non-affiliated customers receiving the credit and to the Minnesota Public Utilities Commission, North Dakota Public Service Commission, South Dakota Public Utilities Commission, and the Public Service Commission of Wisconsin.

Comment date: September 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Company of New Mexico

[Docket No. ER89-638-000]

September 8, 1989

Take notice that on September 1, 1989, Public Service Company of New Mexico (PNM) tendered for filing Amendment No. 5 to the Contract for Electric Service between PNM and the City of Gallup, New Mexico (City). Amendment No. 5 provides for City to be able to schedule with PNM its allocation of power and energy from the Salt Lake City Area Integrated Projects in kW instead of whole one MW increments.

PNM is requesting a waiver of the Commission's notice requirements and is requesting that Amendment No. 5 be accepted for filing to be effective as of October 1, 1989.

Comment date: September 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

12. Potomac Electric Power Company

[Docket No. ER89-636-000]

September 8, 1989

Take notice that on September 1, 1989, Potomac Electric Power Company (PEPCO) tendered for filing a first amendment to PEPCO FERC Rate Schedule No. 74, the 1988 rate schedule which provides for the periodic auction, by PEPCO to the other members of the Pennsylvania-New Jersey-Maryland Interconnection (PJM), of unused portions of PEPCO's allocated PJM import entitlement from time to time to bring reserved economy energy imports to PJM. In addition to such auctions on a forthcoming single week or month basis, the first amendment provides that such auctions also may take place in advance or on a multi-month basis.

Comment date: September 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

13. American Bituminous Power Partners, L.P.)

[Docket No. QF87-494-002]

September 11, 1989

On August 25, 1989 American Bituminous Power Partners, L.P. (Applicant) of 18872 MacArthur Boulevard, Suite 400, Irvine, CA 92715-1488 submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located near Grant Town, Marion County, West Virginia. The facility will consist of two circulating fluidized bed combustion boilers and an extraction/condensing turbine generator. The primary energy source of the facility will be bituminous coal refuse. Less than one percent of the total annual energy input will be from natural gas which will be used for start-up purposes. Thermal energy recovered from the facility will be used to heat and humidify lumber drying kilns and to dry wood bark. The net electric power production capacity of the facility will be approximately 80 megawatts.

The original application was filed on January 15, 1988 and was granted on April 12, 1988 (43 FERC ¶ 62,040 (1988)). The recertification is requested due to a change in ownership. Applicant states that SEC corp, an electric utility holding company, will be indirectly entitled to a fifty percent interest in the facility.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

14. City of Chester

[Docket No. QF89-329-000]

September 11, 1989

On August 29, 1989, City of Chester (Applicant), of 20 East Fifth Street (rear), Chester, Pennsylvania 19013 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Delaware County, Pennsylvania. The facility will consist of two (2) refuse derived fuel steam generators and a steam turbine generator. The electric power production capacity will be 72 megawatts. The primary energy source will be biomass in the form of municipal solid waste. The facility will use natural gas for start-ups, shut-downs and temperature control, however, such fossil fuel usage will not exceed 10% of the total fuel input during any calendar year period.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

15. Coso Finance Partners

[Docket No. QF84-327-001]

September 11, 1989

On August 29, 1989, Coso Finance Partners (Applicant), c/o California Energy Company, Inc., of 9th Floor, 601 California St., San Francisco, CA 94108 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility is located at the Naval Weapons Center at China Lake, near Ridgecrest, California. The facility will now consist of three turbines, a 28.3 mile 115 KV transmission line, as well as other interconnection facilities and auxiliary equipment. The primary energy source of the facility will be geothermal. The gross electric power production capacity of the facility will be 91 MW. Applicant states that an electric utility will be entitled to less than 50 percent of the equity interest.

The original application was filed by California Energy Company, Inc. on May 16, 1984 and granted July 30, 1984 (28 FERC ¶ 62,124 (1984)). The recertification is requested due to the following changes: (1) The ownership of the facility has been transferred from China Lake Joint Venture to Applicant; (2) The configuration of the facility has been changed and the gross capacity has increased from 75 MW to 91 MW; and (3) Inclusion of a 28.3 mile 115 KV transmission line.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22001 Filed 9-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ83-3-23-001]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 12, 1989.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on August 30, 1989 certain substitute revised tariff sheets to implement ESNG's compliance Quarterly Purchased Gas Adjustment (PGA) filing to be effective as of August 1, 1989.

ESNG states that on June 30, 1989 it filed its regularly scheduled quarterly PGA filing to become effective August 1, 1989. Such filing reflected the continued implementation of a proposed Stipulation and Agreement (S & A) filed by Transcontinental Gas Pipe Line Corporation (Transco) in Docket Nos. RP88-68-00, RP87-7-000, et. al. Article II of the S&A effectively transferred Transco's gas merchant function to its non-jurisdictional affiliate, Temco. The Commission, however, by order issued July 19, 1989 rejected Transco's S & A. Accordingly, the Commission, by letter order issued to ESNG on July 31, 1989 in Docket No. TQ89-3-23-000, directed ESNG to file revised rates to (1) eliminate the impact of Transco's S & A on ESNG's rates and (2) reflect any revisions to Transco's rates as it may have filed in Docket No. TA89-1-29-000. ESNG states it has complied with the Commission's directives herein.

ESNG further states that such substitute sheets are being filed pursuant to § 154.308 and § 154.310 of the Commission's regulations and Section 21 of the General Terms and Conditions of ESNG's Gas Tariff to reflect changes in ESNG's jurisdictional rates. The sales rates set forth thereon reflect a decrease of $0.0009 per dt in the Commodity Charge; a decrease of $0.1241 per dt in the Demand Charge 1; and an increase of $0.0005 per dt in the Demand Charge 2, all as measured against ESNG's previously scheduled PGA filing in Docket No. TQ89-2-23-000, as filed on March 31, 1989 and accepted to be effective as of May 1, 1989.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR § 385.211 and § 385.214). All such motions or protests should be filed on or before September 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22002 Filed 9-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-1-33-000]

El Paso Natural Gas Co.; Correction to Proposed Change in Rates

September 12, 1989.

Take notice that on September 7, 1989, El Paso Natural Gas Company ("El Paso") filed with the Federal Energy Regulatory Commission ("Commission") a correction to its Quarterly Adjustment in Rates and Adjustment to the Special Liquids Surcharge at Docket No. TQ90-1-33-000 filed with the Commission on August 31, 1989.

El Paso states that it discovered subsequent to the August 31, 1989 filing that the current estimated average cost of gas and thus the current adjustment reflected on the tendered primary and alternative tariff sheets were incorrect, resulting in El Paso overstating its rates by $.0047 per dth. Therefore, El Paso resubmitted certain of the tariff sheets included in the August 31, 1989 filing to reflect a corrected current estimated cost of gas of $1.7572 per dth and a current adjustment of ($0.0467) per dth.

El Paso respectfully requests that the Commission grant such waivers of its applicable rules and regulations as may be necessary to permit the tendered corrected primary tariff sheets to become effective October 1, 1989. In the event the Commission does not accept El Paso's primary tariff sheets, El Paso proposes that its three (3) sets of corrected alternative tariff sheets be made effective in order of appearance, in lieu of their primary counterparts. However, if the Commission does not grant the waivers requested by El Paso and the permission to adjust the Account 191 surcharge, then those corrected alternative tariff sheets under Tab 2 should be made effective in as much as the surcharge of $4.3694 is reflected thereon.

Copies of the filing was served upon all of El Paso's interstate pipeline system sales customers, all parties of record at Docket No. RP86-157-000, and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22003 Filed 9-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-24-000]

Equitrans, Inc.; Proposed Changes in FERC Gas Tariff

September 12, 1989.

Take notice that on September 1, 1989, Equitrans, Inc. (Equitrans) pursuant to 18 C.F.R. 154.38(d)(6) and part 382, tendered for filing and acceptance the following tariff sheets to its FERC Gas Tariff:

Original Volume No. 1

Substitute Tenth Revised Sheet No. 10
Substitute Ninth Revised Sheet No. 14
Second Revised Sheet No. 23

Original Volume No. 3

Second Revised Sheet No. 4
Second Revised Sheet No. 8

Ekquitrans states that this filing implements the annual charge unit rate of $0.0017 per Mcf in each of its transportation and sales rate schedules. Equitrans requests an effective date of October 1, 1989, for the tendered tariff sheets.

Equitans states that copies of the filing has been made upon each of

Equitrans' jurisdictional customers, interested state commissions, and upon each party on the service list in Docket No. CP86–676–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and and 385.214). All such motions or protests should be filed on or before September 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–22004 Filed 9–18–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ90–1–4–000, TM90–1–4–000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

September 12, 1989

Take notice that on September 7, 1989, Granite State Gas Transmission, Inc. (Granite State), 120 Royal Street, Canton, Massachusetts 02021 tendered for filing with the Commission the revised tariff sheets listed below in its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2 for effectiveness on October 1, 1989:

First Revised Volume No. 1

Twenty-Eight Revised Sheet No. 7
Tenth Revised Sheet No. 7–A
Twenty Revised Sheet No. 8

Original Volume No. 2

Tenth Revised Sheet No. 17
Twelfth Revised Sheet No. 27

According to Granite State, the changes in rates reflect its projected current purchased gas cost adjustments for the fourth quarter of 1989 and adjustments to its sales, storage service and storage-related transportation rates to reflect the revised Annual Charges Adjustment of $0.0017 per Mcf prescribed by the Commission for effectiveness on October 1, 1989.

Granite State further states that copies of its filing were served upon its customers, Bay State Gas Company and Northern Utilities, Inc., and the regulatory commissions of the States of Maine and Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–22005 Filed 9–18–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ID–2425–000]

James M. Hoak, Jr.; Re-Notice of Filing

September 13, 1989.

Take notice that on August 30, 1989, James M. Hoak, Jr. (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Iowa Public Service Company
Director, Daugherty, Dawkins, Strand & Yost, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 26, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–22006 Filed 9–18–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–35–000 [1]]

Midwestern Gas Transmission Co.; Filing of Offer of Settlement Concerning Part 284 Transportation

September 12, 1989

Take notice that on August 29, 1989, Midwestern Gas Transmission Company (Midwestern) filed in the captioned proceeding a Stipulation and Agreement (Stipulation) as an offer of settlement under Rule 602 of the Commission's regulations. Midwestern states that the Stipulation resolves all issues in Docket No. RP89–35, involving Midwestern's restatement of its Base Tariff Rates effective January 1, 1989, and establishes the rates, terms and conditions under which Midwestern will conduct blanket open-access transportation pursuant to Part 284 of the Commission's Regulations.

Midwestern states that, as part of the settlement, it has agreed, pending Commission approval of the Stipulation, to file reduced Interim Rates for all services, including interim rates for open-access firm and interruptible transportation services, and tariff sheets reflecting the terms and conditions under which Midwestern will provide part 284 transportation. Midwestern states further that the Stipulation includes final Settlement Rates which have been significantly restructured to reflect seasonal differentials in the cost of providing service and elimination of bifurcated D–1/D–2 demand rates. The Settlement Rates will become effective on the first day of the month after the Stipulation becomes final and binding.

Midwestern states that copies of this filing have been mailed to all parties on the official service list in the captioned proceeding and all affected customers and state regulatory commissions. Midwestern further states that it will expeditiously make copies of the Stipulation available to interested persons desiring to file comments.

Any interested person not already a party to the captioned proceeding who desires to file comments on the Stipulation should, on or before September 25, 1989, file such comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, together with a motion to intervene, in accordance with the requirements of

[1] The captioned docket is consolidated with *Viking Gas Transmission Company* (formerly Midwestern Gas Transmission Company—Northern System), Docket No. RP89–36. The instant offer of settlement relates only to Docket No. RP89–35–000 and the operation of the Midwestern system (formerly Midwestern—Southern System).

Rules 211, 214, and 602(f) of the Commission's Rules of Practice and Procedure.[2] Reply comments should be filed on or before October 5, 1989. Persons who are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22007 Filed 9-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-140-006]

Midwestern Gas Transmission Co.; Filing

September 12, 1989.

Take notice that on September 5, 1989, Midwestern Gas Transmission Company (Midwestern) filed Fifth Revised Sheet No. 162 and Seventh Revised Sheet No. 163 to its FERC Gas Tariff, Original Volume No. 1, to be effective June 1, 1988.

Midwestern states that these tariff sheets are revised concerning the PGA clause for its Southern System. Midwestern states that these sheets reflect corrections concerning the elimination of language pertaining to storage requested by Commission Staff during the review of the previous filings of April 29, 1988 and November 28, 1988.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such protests should be filed on or before September 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22008 Filed 9-18-89; 8:45 am]

BILLING CODE 6717-01-M

[2] Under Rule 602(f), comments on the settlement from those already parties would be due on September 18, 1989, and reply comments on September 28, 1989. Those dates are superseded by the deadlines established in this notice.

[Docket No. TM 90-1-79-000]

Sabine Pipe Line Co.; Statement of ACA Unit Charge in FERC Gas Tariff

September 12, 1989.

Take notice that Sabine Pipe Line Company (Sabine) on August 31, 1989, tendered for filing a statement of its currently effective ACA unit charge in its FERC Gas Tariff, First Revised Volume No. 1, to be effective October 1, 1989.

Sabine states that the Commission has specified the Annual Charges Adjustment (ACA) unit charge of $.0017/MCF to be applied to rates in 1990 for recovery of 1989 annual charges. The ACA unit rate of $.0017/MCF converts to $.0017/MMBTU under Sabine's basis for billing. Sabine further states that its currently effective ACA unit rate is $.0017/MMBTU, and therefore seeks authorization to continue to use currently effective ACA unit rate for recovery of 1989 annual charges.

Copies of the filing were served upon Sabine's customers, the Louisiana Department of Natural Resources and the Railroad Commission of Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with § 315.214 and § 385.111 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22009 Filed 9-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-82-000, Docket No. TM90-1-82-000]

Viking Gas Transmission Co.; Tariff Filing

September 12, 1989

Take notice that on September 1, 1989, Viking Gas Transmission Company (Viking) filed the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff: First Revised Sheet No. 6 to reflect a new annual charge adjustment of $.0017 Dth, to be effective October 1, 1989; and Second Revised Sheet No. 6 to institute the Annual PGA pursuant to Sections 22.2 and 22.3 of the General Terms and Conditions of Viking's Tariff, to be effective November 1, 1989.

Viking states that the Current Purchased Gas Cost Rate Adjustments reflected on Second Revised Sheet No. 6 consist of $.0741 per dekatherm adjustment to the gas rate, $.0016 per dekatherm adjustment to Rate Schedule SR-1, $.02 per dekatherm applicable to the D1 component of the demand rates.

Viking states that the revisions also reflect a $(.0863) per dekatherm surcharge adjustment to the gas rates and $.10 per dekatherm surcharge adjustment to the demand D1 for amortizing the Unrecovered Gas Cost Account.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and affected statae regulatory commissions.

And person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 14 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 19, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D.Cashell,

Secretary.

[FR Doc. 89-22010 Filed 9-18-89; 8:45 am]

BILLING CODE 6717-01-M

The Office of Hearings and Appeals

Cases Filed During the Week of August 18 Through August 25, 1989

During the week of August 18 through August 25, 1989, the appeal and the applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in

these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: September 12, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of August 18 through August 25, 1989]

Date	Name and location of applicant	Case No.	Type of submission
08/21/89	Castle Oil Company, Harbor Beach, Michigan.	KEE-0178	Exception to the Reporting Requirements. If granted: Castle Oil Company would not be required to file Form EIA-782B, "Reseller/Retailers' Monthly Petroleum Products Sales Report."
08/22/89	John Jerry Ross, San Jose, California.	KFA-0313	Appeal of an Information Request Denial. If granted: The July 25, 1989 Freedom of Information Request Denial issued by the Assistant Manager for Administration would be rescinded and John Jerry Ross would receive access to complete copies of certain May 1988 interviews conducted by DOE investigator Richard Haddock.
08/23/89	Tootle Petroleum, Inc., Washington, DC.	KEF-0140	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the July 7, 1989 Consent Order entered into with Tootle Petroleum, Inc.
08/24/89	Carbonit Houston, Inc., Washington, DC.	KEF-0141	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the July 24, 1989 Consent Order entered into with Carbonit Houston, Inc.
08/24/89	West Coast Oil Company, Washington, DC.	KEF-0142	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the June 28, 1989 Consent Order entered into with West Coast Oil Company.
08/25/89	Gulf/Lou's Gulf Service, Madeira Beach, Florida.	RR300-2	Request for Modification/Rescission. If granted: The July 28, 1989 Decision and Order isued to Lou's Gulf Service would be modified regarding the refund issued to the firm in the Gulf Oil refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of August 18 to August 25, 1989]

Date received	Name of refund proceeding/Name of refund applicant	Case number
08/18/89	Palo Pinto/Kentucky	RQ5-522
08/18/89	Amoco/Kentucky	RQ21-523
08/18/89	Perry Gas/Kentucky	RQ183-524
08/18/89	Pennzoil/Kentucky	RQ10-525
08/18/89	National Helium/ Kentucky.	RQ3-526
08/18/89	Coline/Kentucky	RQ2-527
08/18/89	Amoco/Kentucky	RQ251-528
08/24/89	Giamgrone Oil Company.	RF319-1
08/24/89	Villa Park Fuel Oil	RF319-2
08/24/89	PRI Mar Petroleum	RF319-3
08/24/89	Clardy Oil Company	RF319-4
08/24/89	N. L. Campbell & Sons.	RF319-5
08/24/89	Amelia Oil Company	RF319-6
08/24/89	Sico Company	RF319-7
08/18/89	A.C.F. Trust	RC272-68
08/21/89	Fritz Blaske	RA272-11
08/21/89	Internal Revenue Service.	RF46-57
08/24/89	A. J. Petrunis, Inc.	RF307-10047
08/25/89	Gull Oil Company	RF318-4
08/25/89	Fletcher Oil Company	RF318-5
08/25/89	Parkway East Crown	RF313-308
08/18/89	West Star Corporation	RF318-3
08/22/89	Leny Cassingham	RF307-10046
08/23/89	Ed's Refinery Stations	RF310-344
08/18/89 thru 08/ 25/89	Crude Oil Refund Applications Received.	RF272-75600 thru RF272-75610
08/18/89 thru 08/ 25/89	Atlantic Richfield Refund Applications Received.	RF304-10222 thru RF304-10276
08/18/89 thru 08/ 25/89	Shell Oil Company Refund Applications Received.	RF315-6863 thru RF315-6921

[FR Doc. 89-22097 Filed 9-18-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ECAO-RTP-0243; FRL-3648-7]

National Acid Precipitation Assessment Program; Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: This notice announces an expert, peer-review workshop to be held by the Environmental Criteria and Assessment Office (ECAO) of EPA's Office of Health and Environmental Assessment to facilitate preparation of a draft report, "Indirect Health Effects of Air Pollutants Associated with Acidic Precursor Emissions," a product of the National Acid Precipitation Assessment Program (NAPAP). The workshop site is the Meredith Guest House, Park Place West, 300 Meredith Drive, P.O. Box 12296, Research Triangle Park, North Carolina 27709, (919) 361-4663.

DATES: The workshop will be held September 18-20, 1989, from 9:00 a.m. to 5:00 p.m. Members of the public are invited to attend.

FOR FURTHER INFORMATION CONTACT: Robert W. Elias, Ph.D., U.S. Environmental Protection Agency, Environmental Criteria and Assessment Office, MD-52, Research Triangle Park, North Carolina 27711, (919) 541-4167 or (FTS) 629-4167.

SUPPLEMENTARY INFORMATION: The Acid Precipitation Act of 1980 (Title VII of the Energy Security Act, Pub. L. 96-294) established an Interagency Task Force to develop and implement a comprehensive National Acid Precipitation Assessment Program (NAPAP). The Task Force is chaired jointly by the Environmental Protection Agency; National Oceanic and Atmospheric Administration; Departments of Agriculture, Energy, and Interior; and Council on Environmental Quality. NAPAP's goal is to develop and refine an objective, comprehensive body of scientific, technological, and economic information on the causes and effects of acidic deposition and to assess the effectiveness of various measures that might be adopted to mitigate the adverse effects. NAPAP prepare this information for use by the Congress and the President. The draft report being peer-reviewed at the workshop is one of over 25 state-of-the-science reports which are part of the process of information development for the executive and legislative branches. The report addresses the state-of-the-science of the health effects of lead, mercury, cadmium, aluminum, asbestos, and other inorganic compounds potentially mobilized by acid precipitation. It includes discussion of ambient exposures, health effects, and risk estimates.

Dated: August 29, 1989.

John Skinner,

Acting Assistant Administrator for Research and Development.

[FR Doc. 89-22186 Filed 9-15-89; 1:23 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[DA 89-1107]

Advisory Committee on Advanced Television Service Implementation Subcommittee Meeting

A meeting of the Implementation Subcommittee of the Advisory Committee on Advanced Television Service will be held on October 6, 1989, 10:00 a.m., Commission Meeting Room (Room 856), 1919 M Street, NW., Washington, DC.

The agenda for the meeting will consist of:

1. Introduction
2. Minutes of Last Meeting
3. Report of Working Party 1, Policy and Regulation
4. Report of Working Party 2, Transition Scenarios
5. General Discussion
6. Other Business
7. Date and Location of Next Meeting
8. Adjournment.

All interested persons are invited to attend. Those interested also may submit written statements at the meeting. Oral statements and discussion will be permitted under the direction of the Implementation Subcommittee Chairman.

Any questions regarding this meeting should be directed to Dr. James J. Tietjén at (609) 734-2237 or David R. Siddall at (202) 632-6460.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-22015 Filed 9-18-89; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee To Hold Meeting Tuesday, October 3, 1989

September 13, 1989.

The Technical Subgroup of the Advisory Committee on Radio Broadcasting will hold a meeting on Tuesday, October 3, 1989, at 10:00 a.m. in the McCollough Room of the National Association of Broadcasters, 1771 N Street, NW., Washington, DC.

The Subgroup will consider the following matters:

—Adjacent channel interference standards for AM stations, including the report of the working party presented at the July 13, 1989 Technical Subgroup meeting;
—Proposed US/Mexican expanded AM band agreement; and
—Other business relating to radio broadcasting.

The Subgroup's meetings are continuing ones, and may be resumed after the October 3, 1989, session at such time and place as may be decided at that session. All meetings of the Technical Subgroup are open to the public. All interested persons are invited to participate in these meetings.

For further information, please call the Subgroup Chairman, Wallace E. Johnson at (703) 824-5660.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-22052 Filed 9-18-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; Publication of New System of Records

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Notice of establishment of a new system of records: "Investigative Files and Records."

SUMMARY: In accordance with the Privacy Act of 1974, the FDIC is giving notice of the establishment in final form of a new system of records, entitled Investigative Files and Records.

DATE: Effective October 19, 1989.

FOR FURTHER INFORMATION CONTACT: Robert E. Feldman, Deputy Executive Secretary, FDIC, 550 17th Street NW., Washington, DC 20429, telephone (202) 898-3811.

SUPPLEMENTARY INFORMATION: Notice of the proposal to establish a new system of records, pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), entitled Investigative Files and Records was published in the **Federal Register** on June 13, 1989 (54 FR 25,168), for a 60-day comment period. As explained in the June 13 issue of the **Federal Register**, the system will consist of files and records compiled by the FDIC's Office of Inspector General on FDIC employees or other persons involved with FDIC's programs or operations who have been under investigation for fraud and abuse with respect to the FDIC's programs or operations.

The sysetm will exempt from disclosure to the individual who is the subject of a record in the system investigatory material compiled for law enforcement purposes and investigatory material compiled solely for the purposes of determining suitability, eligibility, or qualifications for FDIC employment to the extent the disclosure of such material would reveal the identity of a source who furnished information to the FDIC under a promise of confidentiality. Those exemptions are the subject of a companion notice of final rulemaking that appears elsewhere in today's issue of the **Federal Register.**

No comments were received on either the proposal to establish the system or the rulemaking.

Accordingly, the Board of Directors establishes the following system of records.

FDIC 30-64-0010

System name: Investigative Files and Records.

System location: Office of Inspector General, FDIC, 550 17th Street, NW, Washington, DC 20429.

Categories of individuals covered by the system: Employees of the FDIC or other persons involved in the FDIC's programs or operations who are or have been under investigation by the FDIC's Office of Inspector General in order to determine whether such employees or other persons have been or are engaging in fraud and abuse with respect to the FDIC's programs or operations.

Categories of records in the system: Contains complete files on individual investigations including investigation reports and related documents generated during the course of or subsequent to the investigation.

Authority for maintenance of the system: Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); sec. 8E of the Inspector General Act of 1978, as amended.

Routine uses of records maintained in the system, including categories of users and purposes of such uses: Information in the system may be disclosed:

(1) To the appropriate federal, state, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order issued when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto.

(2) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation,

or settlement negotiations or in connection with criminal proceedings.

(3) To a congressional office in response to an inquiry made at the request of the individual to whom the records pertain.

(4) to a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary for the FDIC to obtain information concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, the issuance of a license, grant, or other benefit.

(5) To respond to a federal agency's request made in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or issuance of a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to the requesting agency's decision on the matter.

(6) to other federal Offices of Inspector General for the purpose of requesting peer review of FDIC Office of Inspector General investigations, provided the record is transferred in a form that is not individually identifiable.

In addition to the foregoing, a record which is contained in this system and derived from another FDIC system of records may be disclosed as a routine use as specified in the Federal Register notice of the system of records from which the records derived.

Polices and practices for storing, retrieving, accessing, retaining and disposing of records in the system

Storage: File folders and computer discs.

Retrievability: Indexed by name of person under investigation, investigation number, referral number, or investigative subject matter.

Safeguards: File folders are maintained in lockable metal file cabinets stored in offices that are locked after hours. Computer discs are accessed only by authorized personnel.

Retention and disposal: File folders are retained as long as needed and then destroyed by shredding. Computer discs are cleared, retired, or destroyed when no longer useful.

Notification procedure: Requests must be in writing and addressed to the Office of the Executive Secretary, FDIC, 550–17th Street, NW, Washington, DC 20429. Individuals requesting their own records must provide their name and address and a notarized statement attesting to the individual's identity.

Records access procedure: Same as "Notification" above.

Contesting record procedure: Same as "Notification" above.

Record source categories: Subject individuals, employees of the FDIC, other government employees, and witnesses and informants.

Systems exempted from certain provisions of the act: Pursuant to § 310.13(a) of the FDIC's rules and regulations. Investigatory material compiled as part of this system for law enforcement purposes is exempted from the provisions of §§ 310.3 through 310.9 and § 310.10(d)(2) of the FDIC's rules and regulations and may be withheld from disclosure to the extent that such withholding is permissible under any of the exemptive provisions of the Freedom of Information Act (5 U.S.C. 552). Pursuant to § 310.13(b) of the FDIC's rules and regulations, investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for FDIC employment is exempted from the provisions of §§ 310.3 through 310.9 and § 310.10(d)(2) of the FDIC's rules and regulations and may be withheld from disclosure to the extent and disclosure of such material would reveal the identity of a source who furnished information to the FDIC under a promise of confidentiality and to the extent that such withholding is permissible under any of the exemptive provisions of the Freedom of Information Act.

By direction of the Board of Directors.

Dated at Washington, DC, this 12th day of September 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89–22035 Filed 9–18–89; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89D–0351]

Dealcoholized Wine and Malt Beverages—Labeling; Revised Compliance Policy Guide; Availability

AGENCY: Food and Drug Administrtation.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice that it has revised Compliance Policy Guide (CPG) 7101.04 and is announcing the availability of revised CPG 7101.04, "Dealcoholized Wine and Malt Beverages—Labeling." The CPG has been revised to clarify the jurisdiction of FDA and the Bureau of Alcohol, Tobacco, and Firearms (BATF) over dealcoholized wine and malt beverages and to give guidance to FDA's present policy regarding statements of identity and certain optional label statements on dealcoholized beverages under FDA jurisdiction. The title of the CPG has been changed to more accurately describe the contents.

ADDRESSES: Submit written requests for single copies of revised CPG 7101.04, "Dealcoholized Wine and Malt Beverages—Labeling" to the Regulations and Industry Activities Branch, Industry Activities Section (HFF–326), Food and Drug Administration, Room 5425B, 200 C Street SW., Washington, DC 20204. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on revised CPG 7101.04 to the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of revised CPG 7101.04, "Dealcoholized Wine and Malt Beverages—Labeling" and received comments are available for public examiniation in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Terry C. Troxell, Center for Food Safety and Applied Nutrition (HFF–312), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0229.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of revised CPG 7101.04, "Dealcoholized Wine and Malt Beverages—Labeling." The purpose of revising CPG 7101.04 are to change the title of the CPG and to clarify the jurisdictions of FDA and BATF over labeling of dealcoholized wine and malt beverages. The revised CPG also provides guidance on acceptable statements of identity and certain optional label statements for dealcoholized wine. While this policy does not constitute legal requirements, FDA will use it as guidance when considering whether to recommend legal action against these products. This guidance does not limit the agency's enforcement discretion on whether to initiate regulatory action after evaluation of all relevant facts.

This notice is issued under 21 CFR 10.85.

Dated: September 11, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-22013 Filed 9-18-89; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Veterinary Medicine Advisory Committee

Date, time, and place. October 4 and 5, 1989, 8:15 a.m., Georgetown Rm., Congressional Park Days Inn, 1775 Rockville Pike, Rockville, MD.

Type of meeting and contact person. Open committee discussion, October 4, 1989, 8:15 a.m. to 11 a.m.; open public hearing, 11 a.m. to 12 p.m., unless public participation does not last that long; open committee discussion, 1:30 p.m. to 4:30 p.m.; closed committee deliberations, October 5, 1989, 8:15 a.m. to 11:30 a.m.; Gary E. Stefan, Center for Veterinary Medicine (HFV-244), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-0830.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal diseases and increased animal production.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person.

Open committee discussion. The committee will discuss current Center for Veterinary Medicine activities, data requirements to demonstrate bioequivalence and bioavailability of generic animal drugs, the role of FDA relative to rapid screening methods for animal drugs, and drug residue tolerance setting/food consumption factors.

Closed committee deliberations. The committee will review trade secret or confidential commercial information relevant to the target animal safety of new animal drugs under review. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Gastroenterology—Urology Devices Panel

Date, time, and place. October 19 and 20, 1989, 8:30 a.m., Rm. T-416-418, Twinbrook Bldg. No. 4, 12720 Twinbrook Parkway, Rockville, MD.

Type of meeting and contact person. Open public hearing, October 19, 1989, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 2 p.m.; closed presentation of data, 2 p.m. to 4:15 p.m.; open public hearing, October 20, 1989, 8:30 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 1 p.m.; Ruth W. Hubbard, Center for Devices and Radiological Health (HFZ-420), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1220.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested person may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 1, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On October 19, 1989, the committee will have a general discussion concerning the issues in the evaluation of extracorporeal shockwave lithotripsy for gallstones and will discuss two premarket approval applications for extracorporeal shockwave lithotripters. On October 20, 1989, the committee will have a general discussion concerning extracorporeal shockwave lithotripsy for renal indications and a discussion concerning post-approval followup studies for extracorporeal shockwave lithotripters.

Closed presentation of data. The committee will discuss trade secret and/or confidential commercial information regarding lithotripters. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Ophthalmic Devices Panel

Date, time, and place. October 19 and 20, 1989, 9 a.m., Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, October 19, 1989, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 4 p.m.; open committee discussion, 4 p.m. to 5 p.m.; open public hearing, October 20, 1989, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 4 p.m.; open committee discussion, 4 p.m. to 5 p.m.; Daniel W.C. Brown, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1080.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 4, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On October 19, 1989, the committee will discuss general issues relating to approvals of premarket approval applications (PMA's) for intraocular lenses (IOL's) and other class III surgical or diagnostic devices, and may discuss specific PMA's for these devices. If discussion of all pertinent IOL's or other class III surgical or diagnostic device issues are not completed, discussion will be continued the following day. On October 20, 1989, the committee will discuss PMA's for contact lenses and other devices and requirements for PMA approval.

Closed committee deliberations. On October 19 and 20, 1989, the committee may discuss trade secret or confidential commercial information relevant to PMA's for IOL's, surgical or diagnostic devices, and contact lenses or other

ophthalmic devices. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluatin of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: September 13, 1989.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 89–22012 Filed 9–18–89; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

[OIS–006–N]

Quarterly Listing of Program Issuances

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General Notice.

SUMMARY: This notice lists HCFA manual instructions, interpretative rules, and statements of policy that were published during April, May and June 1989 that relate to the Medicare program. Section 1871(c) of the Social Security Act requires that we publish a list of our issuances in the **Federal Register** every three months.

FOR FURTHER INFORMATION CONTACT:

Allen Savadkin, (301) 966–5265. (For Instruction Information Only).

Matt Plonski, (301) 966–4662. (For All Other Information).

SUPPLEMENTARY INFORMATION: The Health Care Financing Administration (HCFA) is responsible for administering the Medicare program, a program which

pays for health care and related services for 33 million Medicare beneficiaries. Administration of the program involves effective communications with regional offices, State governments, various providers of health care, fiscal intermediaries and carriers who process claims and pay bills, and others. To implement the various statutes on which the program is based, we issue regulations under authority granted the Secretary under sections 1102 and 1871 and related provisions of the Social Security Act (the Act) and also issue various manuals, memoranda, and statements necessary to administer the program efficiently.

Section 1871(c)(1) of the Act requires that we publish in the Federal Register no less frequently than every three months a list of all Medicare manual instructions, interpretative rules, statements of policy, and guidelines of general applicability. This is the sixth listing of issuances. As in prior notices, although both substantive and interpretative regulations published in the Federal Register in accordance with section 1871(a) of the Act are not subject to the publication requirement of section 1871(c), for the sake of completeness of the listing of operational and policy statements we are including regulations (proposed and final) published.

A. How to Use the Listing

This notice is organized so that a reader may review the subjects of all manual issuances, memoranda, or regulations published during this timeframe to determine whether any are of particular interest. We expect it to be used in concert with previously published notices. Most notably, those unfamiliar with a description of our manuals may wish to review Table I of our first three notices, and those seeking information on the location of regional depository libraries may wish to review Table IV of our first notice (53 FR 21736). We have divided this current listing into three tables.

Table I describes where interested individuals can get a description of all previously published HCFA manuals and memoranda. Also, Table I describes the Medicare Carriers Manual and its new part on Professional Relations that was added to the manual during this quarter.

Table II of this notice lists, for each of our manuals or Program Memoranda, a transmittal number unique to that instruction and a brief statement of its subject matter. The subject matter in a transmittal may consist of a single instruction or many. Often it is necessary to use information in a transmittal in conjunction with information currently in the manuals.

Table III lists all Medicare and Medicaid regulations and general notices published in the Federal Register during this period. For each item, we list the date published, the title of the regulation, and the Parts of the Code of Federal Regulations (CFR) which have changes.

B. How To Obtain Listed Material

- *Manuals*

An individual or organization interested in routinely receiving any manual and revisions to it may purchase a subscription to that manual. Those wishing to subscribe should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses: Superintendent of Documents, Government Printing Office, Washington, DC 20402. Telephone (202) 783–3238; National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161. Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS will give complete details on how to obtain the publications they sell.

- *Regulations and Notices*

Regulations and notices are published in the daily Federal Register. Interested individuals may purchase individual copies or may subscribe to the Federal Register by contacting the Government Printing Office at the following address: Superintendent of Documents, Government Printing Office, Washington, DC 20402, Telephone (202) 783–3238. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

- *Rulings*

Rulings are published on an infrequent basis by HCFA. Interested individuals can obtain copies from the nearest HCFA regional office or review them at the nearest regional depository library.

C. How To Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the Federal Depository Library Program, government publications are sent to approximately 1400 designated libraries throughout the United States. Interested parties may examine the documents at any one of the FDLs. Some may have arrangements to transfer material to a local library not designated as an FDL. To locate the nearest FDL, individuals should contact any library.

In addition, individuals may contact regional depository libraries, which receive and retain at least one copy of nearly every Federal Government publication, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the closest regional depository library from any library.

Superintendent of Documents numbers for each HCFA publication are shown in Table II, along with the HCFA publication and transmittal numbers. To help FDLs locate the instruction, use the Superintendent of Documents number, plus the HCFA transmittal number. For example, to find the Intermediary Manual part 3—Claims Process (HCFA–Pub. 13–3) transmittal containing "Stock Denial Paragraphs" and "Skilled Nursing Facility (SNF) Letters" use the Superintendent of Documents number HE 22.8/6 and the HCFA transmittal number 1423.

D. General Information

It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contract persons. Individuals are expected to procure copies or arrange to review them as noted above.

Questions concerning items in Tables I or II may be addressed to Allen Savadkin, Office of Issuances, Health Care Financing Administration, Room 688 East High Rise, 6325 Security Blvd., Baltimore, MD 21207; Telephone (301) 966–5265.

Questions concerning all other information may be addressed to Matt Plonski, Regulations Staff, Health Care Financing Administration, Room 132 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (301) 966–4662.

Table I—Description of Manuals, Memoranda and HCFA Rulings

An extensive descriptive listing of manuals and memoranda was previously published at 53 FR 21731 and

supplemented at 53 FR 36892 and 53 FR 50579. During the April–June quarter HCFA expanded the "Medicare Carriers Manual (HCFA–Pub. 14)" by adding a new Part 4.

For sake of completeness we are publishing a new description of the Medicare Carriers Manual (HCFA–Pub. 14) that updates the information that was published in our first notice.

Medicare Carriers Manual (HCFA-Pub. 14)

The Medicare Carriers Manual is designed for use by Medicare carriers that process claims under the supplementary medical insurance program (part B) of Medicare (i.e., the part that helps pay for doctors services, outpatient care, physical therapy, home health care, and other health services and supplies covered by this part of the program). It encompasses the policies and procedures which govern carriers' administrative and financial responsibilities for claims review, bill payment, applying utilization safeguards and other activities assigned to them. The manual also contains the procedure that carriers utilize to establish unique physician identification numbers and instructs carriers to apprise physicians and suppliers of HCFA policies. This manual consists of four parts.

Part 1—Administration (HCFA–Pub. 14–1)

Part 2—Program Administration (HCFA–Pub. 14–2)

Part 3—Claims Processing (HCFA–Pub. 14–3)

Part 4—Professional Relations (HCFA–Pub. 14–4)

TABLE II.—MEDICARE MANUAL INSTRUCTIONS, APRIL–JUNE 1989

Trans. No.	Manual/Subject/Publication Number
	Intermediary Manual, Part 2—Audits, Reimbursement, Program Administration (HCFA-Pub. 13-2) (Superintentdent of Documents No. HE 22.8/6.2)
368	● Provider Statistical and Reimbursement System
	Intermediary Use of PS&R System Reports in Cost Settlement Process
	Description of Reports Available from Standard PS&R System
	Corrections to Individual Records
	PS&R System Data Elements
369	● Election of Intermediary
	Change of Intermediary
370	● Unit Cost Functional Criterion
	Process Claims Functional Criterion
	Auditing Functional Criterion
	Medical Review Functional Criterion
	Medicare Secondary Payer Functional Criterion
	Financial Management Functional Criterion
	Beneficiary and Provider Services Functional Criterion
	Reporting Functional Criterion
	Reimbursement Functional Criterion
	Intermediary Manual, Part 3—Claims Process (HCFA-Pub. 13-3) (Superintendent of Documents No. HE 22.8/6)
1420	● PRO Outpatient Record Layout and Description
1421	● Review of Form HCFA-1450 for Inpatient and Outpatient Bills
1422	● Covered and Noncovered Home Health Services
	Conditions for Coverage of Home Health Services
	Special Conditions for Coverage of Part A
	Part-Time or Intermittent Home Health Aide and Skilled Nursing Services
1423	● Stock Denial Paragraphs
	SNF Denial Letters
1424	● Medical Review Part of B, Intermediary Outpatient Speech-Pathology Bills
	Medical Review of Part B, Intermediary Outpatient Occupational Therapy Bills
1425	● SNF Notification
	Notifying Patient of Noncoverage
	Verifying Provider Notification Procedure
	Improper Coverage Decisions
	SNFs
	Processing Beneficiary Demand Bills for Noncovered Admissions
	Processing Beneficiary Demand Bills for Continued Stay Denials
	Processing Beneficiary Complaints and Inquiries Regarding Demand Bills
	Review of SNF Denial Notices With Demand Bill Request
	Special Notification Letters
	Letter Requesting SNF to Submit a Bill at Beneficiary's Request
	Completion of SNF Letter
	MR for Coverage of SNF Services
1426	● Heart Transplants
	Allogeneric Bone Marrow Transplantation
	Billing for Bone Marrow Acquisition Services
	Notifying Carriers
1427	● Unlisted Service or Procedure
1428	● Medical Review of Ambulatory Surgery
	PRO Preadmission/Preprocedure Review
1429	● PRO Reporting on Medical Review
1430	● SNF Denial Letters
IM-89-3	● New Part A Provisions Under Catastrophic Insurance
	Carriers Manual, Part 2—Program Administration (HCFA-Pub. 14-2) (Superintendent of Documents No. HE 22.8/7-3)
109	● Unit Cost Functional Criterion
	Medicare Secondary Payer Functional Criterion
	Pricing and Coding Functional Criterion
	Financial Management Functional Criterion
	Beneficiary and Provider Functional Criterion
	Reporting Functional Criterion
	Carriers Manual, Part 3—Claims Process (HCFA-Pub. 14-3) (Superintendent of Documents No. HE 22.8/7-4)
1298	● Data Sets for Electronic Media Claims
	National Standard Format for Medicare Input
	Request for Paymant on Provider Record
	Review of Form HCFA-1490S
	Review of Physician's or Supplier's Statement
	Review of the Health Insurance Claim Form HCFA-1500
	Physician or Supplier Information
	Diagnosis or Nature of Illness or Injury "Leave Blank" Column
	Name, Address and ID Number of Physician or Supplier
	Time Limit for Filing Claims
	Billing by Organizations of HCFA-1500 or HCFA 1490U
	Compliance with Diagnostic Coding Requirements
1299	● Prepayment Screens
1300	● HCFA Common Procedure Coding System
1301	● Contacts with Physicians, Suppliers, or Beneficiaries for Additional Information
1302	● Reasonable Charge Screens Edit Package
1303	● Content of the Part B Medicare Annual Data Prevailing Charge/Pricing File
1304	● National Registry of Physicians
1305	● Place of Service Coding
	Coding Type of Supplier
1306	● Brief Office Visits For Monitoring or Changing Drug Prescriptions
1307	● Radiology Fee Schedule
1308	● Special Travel Allowance for Clinical Diagnostic Laboratory Services
1309	● Coding and Reporting Requirements
1310	● Repairs, Maintenance, Replacement, and Delivery
	Methodology for Calculating Fee Schedules
	Oxygen and Oxygen Equipment
	Transition to Fee Schedule—Relationship to Prior Rules
	Oxygen Contents
1311	● Disclosure of Program Materials
1312	● Carrier Performance Report (HCFA-1565)—Instructions for Completing Page 11
IM-89-1	● Death of Beneficiary Before His Claim is Settled
	Medicare Carriers Manual, Part 4—Professional Relations (HCFA-Pub. 14-4) (Superintendent of Documents No. HE 22.8/7-4)
1	● National Registry of Physicians
	Ongoing Data Collection on Physician Application
	Physician Practice Record—Required Information and Format
	Monitoring Physician Group Membership
	Validation of Physician Credentials and Prior Practice
	Notice to Physicians Regarding Matching

TABLE II.—MEDICARE MANUAL INSTRUCTIONS, APRIL–JUNE 1989—Continued

Trans. No.	Manual/Subject/Publication Number
Pub. 60A) (Superintendent of Documents No. HE 22.8/6–5)	
A–89–3	● Update to the Medicare Outpatient Code Editor
Program Memorandum, Carriers (HCFA–Pub. 60 B) (Superintendent of Documents No. HE 22.8/6–5)	
B–89–6	● Rejection and Exception Resolution for the Physician Identification Effort
B–89–7	● Carrier Quality Assurance System Revised Implementation Schedule
B–89–8	● Changes to HCFA Common Procedure Coding System
B–89–9	● Office of Inspector General Report "Medicare Coverage of Seat Lift Chairs" (Attachment to Carriers Only)
B–89–10	● Form HCFA–484 Attending Physician's Certification of Medical Necessity for Home Oxygen Therapy
B–89–11	● Collection of Data on Claims for Durable Medical Equipment Prosthetics, Orthotics and Supplies
Program Memorandum, Intermediaries/Carriers (HCFA–Pub. 60 A/B) (Superintendent of Documents No. HE 22.8/6–5)	
AB–89–2	● Hospital Billing for Other Diagnostic Procedure Codes (Attachment to Intermediaries/Carriers Only)
AB–89–3	● Implementation of Oxygen Fee Schedules (Attachment to Intermediaries/Carriers Only)
AB–89–4	● Part B Appeals Procedures
State Operation Manual, Provider Certification (HCFA–Pub. 7) (Superintendent of Documents No. HE 22.8/12)	
221	● Interpretive Guidelines—Independent Laboratories
222	● Comprehensive Outpatient Rehabilitation Facility—Citations and Description Scope and Site of Services
223	● Coordination Nurse Aide Training and Competency Evaluation Programs Qualifications of Instructors Minimum Curriculum Requirements Methodology for State Review of Compliance with Program Requirements Requirements for Determination of Competency Competency Evaluation Component Location, Responsibility for, and Approval of Programs Deemed Competency and Reporting of Individuals Prohibition of Program Approval
224	● Retroactive Approval of Outpatient Occupational Therapy Providers and Suppliers
225	● Guidance to States for Medicaid Nursing Facility Remedies
226	● During the Survey Termination Procedures—Immediate and Serious Threat to Patient Health and Safety (Medicare)
227	● ICF and ICF/MR Approval Procedures Special Approval Procedures for ICFs/MR Assessment of ICFs/MR Based on the Conditions of Participation Waiver of Intermediate Care Facility and ICFs/MR Requirements Survey Team Composition Intermediate Care Facility for the Mentally Retarded—Citations and Description Distinct Part ICF Using the Interpretive Guidelines When Surveying Completing the ICFs/MR Survey Report Nonrenewal or Cancellation of Time Limited Agreements for Long Term Care Facilities (Medicare and Medicaid)
228	● Complaints Involving HIV-Infected Individuals Interpretive Guidelines—Hospitals Interpretive Guidelines—Life Safety Code
229	● Core Services (42 CFR 416.58): Nursing Services—Waiver (42 CFR 418.83) Plan of Care (42 CFR 418.58) Core Services (42 CFR 418.80)
230	● During the Survey
IM–89–1	● Change in Certification Status for Medicaid SNFs and Medicaid Distinct Part SNFs Increase in Bed Size of Medicare Distinct Part SNFs
Regional Office Manual, Medicare (HCFA–Pub. 23–2) (Superintendent of Documents No. HE 22.8/8)	
305	● Intermediary Availability Guidelines Intermediary Elections by Provider Chains
306	● RO Review of Unlisted HCPCS Services or Procedures
Regional Office Manual, Standards and Certification (HCFA–Pub. 23–4) (Superintendent of Documents No. HE 22.8/8–3)	
39	● Federal Surveys—Definition and Purpose Federal Monitoring Survey Selection Conduct of Monitoring Surveys Report of Findings of Monitoring Surveys
40	● Retroactive Approval of Outpatient Occupational Therapy Providers and Suppliers Effective Date for Outpatient Occupational Therapy Providers or Suppliers Requesting Retroactivity by September 1, 1989
41	● Ascertaining Compliance with Civil Rights Requirements Noncompliance With One or More Conditions of Participation or Coverage and the Deficiencies Pose An Immediate and Serious Threat to Patient Health or Safety Processing Cases Involving Separate Cost Entities Under Medicare Assignment of Provider and Supplier Identification Numbers Statement of Financial Solvency, HCFA–2572 Initial Denial Notices Significance of the Documentary Evidence in RO Termination Files Denial of Payments for New Long-Term Care Admissions Notice of Denial of Payments for New SNF Admissions Public Notice of Nonrenewal, Cancellation, or Denial Readmission of Medicaid-Only Facility After Termination Requesting Additional State Agency Development Intermediary Assistance on Cost Reporting Considerations in Distinct Part SNF Medicare Certification Effective Date of Provider Agreement, HCFA–1561 Authority to Terminate Medicare and Medicaid Participation Medicare Termination Procedures Model Letter—Denial of Payments for New SNF Admissions
IM–89–1	● Change in Certification Status for Medicaid SNFs and Medicaid Distinct Part SNFs Increase in Bed Size of Medicare Distinct Part SNFs
Hospital Manual, (HCFA–Pub. 10) (Superintendent of Documents No. HE 22.8/2)	
561	● Billing for Durable Medical Equipment and Orthotic/Prosthetic Devices
562	● Reporting Outpatient Surgery and Other Services
563	● Uniform Billing
564	● CHAMPUS (Civilian Health and Medical Program of Uniformed Services) and CHAMPVA (Civilian Health and Medical Program of Veterans Administration)
565	● Election of Intermediary Billing for Part B, Outpatient Occupational Therapy Services Billing for Part B, Intermediary Outpatient Speech-Language Pathology Services
566	● Heart Transplants Allogeneic Bone Marrow Transplantation Billing for Marrow Acquisition Services
Home Health Agency Manual, (HCFA–Pub. 11) (Superintendent of Documents No. HE 22.8/5)	
222	● Covered and Noncovered Home Health Services Conditions for Coverage of Home Health Services Special Conditions for Coverage of Part A Part-Time or Intermittent Home Health Aide and Skilled Nursing Services
223	● Definition of Provider Intermediary Designations Billing for Part B, Intermediary Outpatient Speech-Language Pathology Services Billing for Part B, Outpatient Occupational Therapy Services
Skilled Nursing Facility, (HCFA–Pub. 12) (Superintendent of Documents No. HE 22.8/3)	
278	● Billing for Durable Medical Equipment and Orthotic/Prosthetic Devices

TABLE II.—MEDICARE MANUAL INSTRUCTIONS, APRIL–JUNE 1989—Continued

Trans. No.	Manual/Subject/Publication Number
279	● CHAMPUS (Civilian Health and Medical Program of Uniformed Services) and CHAMPVA (Civilian Health and Medical Program of Veterans Administration)
280	● Notification Requirements Notifying Patient of Noncoverage Submitting Denial Notices in Which Demand Bills Are Requested SNF Letters to Establish Beneficiary Notice of Medicare Noncoverage SNF Denial Paragraphs Submitting Bills At the Request of the Beneficiary (Demand Bills) and to Obtain Denial Notices Submitting Discharge Bills in No-Payment Cases
281	● Election of Intermediary Billing for Part B Intermediary Outpatient Speech—Language Pathology Services Billing for Part B, Outpatient Occupational Therapy Services
IM–89–1	● Description of Part A SNF Coverage Provisions Under Catastrophic Insurance
Health Maintenance Organization/Competitive Medical Plan Manual, (HCFA-Pub. 75) (Superintendent of Documents No. HE 22.8)	
IM–89–1	● Implementation of the Gramm-Rudman-Hollings Legislation and Omnibus Budget Reconciliation Act of 1987
	Basis for Adjustments to Reimbursement and the Computation Process
Hospice Manual, (HCFA-Pub. 21) (Superintendent of Documents No. HE 22.8/18)	
22	● Intermediary Designations
Outpatient Physical Therapy and Comprehensive Outpatient Rehabilitation Facility Manual, (HCFA-Pub. 9) (Superintendent of Documents No. HE 22.8/9)	
86	● Billing for Durable Medical Equipment and Orthotic/Prosthetic Devices
87	● Medical Review of Part B, Intermediary Outpatient Speech-Language Pathology Services Medical Review of Part B, Outpatient Occupational Therapy Services
Coverage Issues Manual, (HCFA-Pub. 6) (Superintendent of Documents No. HE 22.8/14)	
34	● Blood Platelet Transfusions and Bone Marrow Transplantation
35	● Food Allergy Testing and Treatment
36	● Heart Transplants Water Purification and Softening Systems Used in Conjunction With Home Dialysis Peridex CAPD Filter Set Ultrafiltration Monitor Seat Lift Durable Medical Equipment Reference List Hospital Beds Plastic Surgery to Correct "Moon Face" Insulin Syringe Physician's Office Within an Institution-Coverage of Services and Supplies Incident to a Physician's Services Graviee Jet Washer Consultation Services Rendered By a Podiatrist in a Skilled Nursing Facility Dental Examination Prior to Kidney Transplantation Prosthetic Shoes
37	● Home Use of Oxygen Medical Documentation Health Conditions
Provider Reimbursement Manual, Part II Provider Cost Reporting Forms and Instructions (General), (HCFA-Pub. 15–II V) (Superintendent of Documents No. HE 22.8/4)	
2	● Clarification of Cost Reporting Instructions on the Malpractice and Labor/Delivery Room Recalculations
Provider Reimbursement Manual, Part I (HCFA-Pub. 15–1) (Superintendent of Documents No. HE 22.8/4)	
350	● Establishes a New Payment Methodology for Radiology Services and Other Diagnostic Procedures Performed By Hospitals On an Outpatient Basis
Carriers Quality Assurance Handbook (HCFA-Pub. 25) (Superintendent of Documents No. HE 22.8:C)	
39	● Contains a Complete Reorganization of Existing Handbook Material That Must Be Used With the July 1, 1989 Implementation of the Modernized Carrier Quality Assurance System.

TABLE III.—REGULATIONS AND NOTICES PUBLISHED APRIL–JUNE, 1989

Publication date/ cite	42 CFR part	Title
Final Rules		
05/16/89 (54 FR 21065).	400, 433	Medicare and Medicaid; approved information collection requirements and federal medical assistance percentage computation.
Proposed Rules		
05/08/89 (54 FR 19636).	412	Medicare Program; changes to the inpatient hospital prospective payment system and fiscal year 1990 rates (correction published 06/23/89 (54 FR 26467)).
Notices		
06/01/89 (54 FR 23450).	.....	Medicare program; additions and deletions from the current list of covered surgical procedures for ambulatory surgical centers.
06/01/89 (54 FR 23457).	.....	Medicare program; meeting of the Supplemental Health Insurance Panel.
06/05/89 (54 FR 24039).	.....	Quarterly listing of program issuances.
06/30/89 (54 FR 27742).	.....	Medicare program; schedule of limits on home agency costs per visit for cost reporting periods beginning on or after July 1, 1989.
06/30/89 (54 FR 27755).	.....	Medicare program; MMIS system performance review revisions.

(Catalog of Federal Domestic Assistance Program No. 13.773, Hospital Insurance; and Program No. 13.774, Medicare-Supplementary Medical Insurance Programs)

Dated: August 28, 1989.

Ross Anthony,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 89–22069 Filed 9–18–89; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[PRT–740550]

Emergency Exemption; Issuance; Ringling Brothers and Barnum & Bailey Circus, Washington, DC.

On September 12, 1989, the U.S. Fish and Wildlife Service, Office of Management Authority, issued an import permit to Ringling Brothers and Barnum and Bailey Circus, Washington, D.C., authorizing the import of three captive-bred tigers (*Panthera tigris*) and three captive-bred leopards (*Panthera pardus*) from Japan. These animals are owned by Clubb-Chipperfield, Ltd., United Kingdom, and are being imported in order to tour with Ringling Brothers through 1991. Receipt of the application was published in the August 21, 1989,

Federal Register; however, the remainder of the 30-day public comment period required by the Endangered Species Act was waived in accordance with Section 10(c) of the Endangered Species Act. The Fish and Wildlife Service determined that an emergency affecting the health and lives of the animals existed, and no reasonable alternative was available to the applicant.

Dated: August 31, 1989.

Karen S. Wilson,

Acting Chief, Branch of Permits Office of Management Authority.

[FR Doc. 89-22038 Filed 9-18-89; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 9, 1989. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by October 4, 1989.

Amy Federman,

Acting Chief of Registration, National Register.

ARKANSAS

Pope County

Koen, Henry R., Forest Service Building, 605 W. Main St., Russelville, 89001628

KANSAS

Barton County

US Post Office—Hoisington (Kansas Post Office with Artwork, 1936-1942 MPS), 121 E. 2nd St., Hoisington, 89001642

Brown County

US Post Office—Horton (Kansas Post Offices with Artwork, 1936-1942 MPS), 825 1st Ave. E., Horton, 89001643

Butler County

US Post Office—Augusta (Kansas Post Offices with Artwork, 1936-1942 MPS), 119 E. Fifth St., Augusta, 89001632

Coffey County

US Post Office—Burlington (Kansas Post Offices with Artwork, 1936-1942 MPS), 107 S. Fourth St., Burlington, 89001634

Dickinson County

US Post Office—Herington (Kansas Post Offices with Artwork, 1936-1942 MPS), 17 E. Main St., Herington, 89001641

Greenwood County

US Post Office—Eureka (Kansas Post Offices with Artwork, 1936-1942 MPS), 301 N. Oak St., Eureka, 89001637

Harper County

US Post Office—Anthony (Kansas Post Offices with Artwork, 1936-1942 MPS), 121 W. Steadman, Anthony, 89001631

Harvey County

US Post Office—Halstead (Kansas Post Offices with Artwork, 1936-1942 MPS), 319 Main St., Halstead 89001640

Kingman County

US Post Office—Kingman (Kansas Post Offices with Artwork, 1936-1942 MPS), 425 W. Main St., Kingman, 89001645

Labette County

US Post Office—Oswego (Kansas Post Offices with Artwork, 1936-1942 MPS), 819 4th St., Oswego, 89001648

McPherson County

US Post Office—Lindsborg (Kansas Post Offices with Artwork, 1936-1942 MPS), 125 E. Lincoln St., Lindsborg, 89001646

Morris County

US Post Office—Council Grove (Kansas Post Offices with Artwork, 1936-1942 MPS), 103 W. Main St., Council Grove, 89001636

Nemaha County

US Post Office—Sabetha (Kansas Post Offices with Artwork, 1936-1942 MPS), 122 S. 9th St., Sabetha, 89001650

US Post Office—Seneca (Kansas Post Offices with Artwork, 1936-1942 MPS), 607 Main St., Seneca, 89001651

Reno County

US Post Office—Hutchinson (Kansas Post Offices with Artwork, 1936-1942 MPS), 128 E. First St., Hutchinson, 89001644

Republic County

US Post Office—Belleville (Kansas Post Offices with Artwork, 1936-1942 MPS), 1119 18th St., Belleville, 89001633

Russell County

US Post Office—Russell (Kansas Post Offices with Artwork, 1936-1942 MPS), 135 W. Sixth St., Russell, 89001649

Sherman County

US Post Office-Goodland (Kansas Post Offices with Artwork, 1936—1942 MPS), 124 E. 11th St., Goodland, 89001639

Sumner County

US Post Office—Caldwell (Kansas Post Offices with Artwork, 1936—1942 MPS), 14 N. Main St., 89001635

Wilson County

US Post Office—Fredonia (Kansas Post Offices with Artwork, 1936—1942 MPS), 428 Madison St., Fredonia, 89001638

US Post Office—Neodesha (Kansas Post Offices with Artwork, 1936—1942 MPS), 123 N. Fifth St., Neodesha, 89001647

MISSOURI

Jackson County

Byran's Ford Historic District, 63rd St. and Manchester Trafficway at Big Blue River, Kansas City, 89001629

MONTANA

Hill County

Havre Residential Historic District, Roughly bounded by Third St., Seventh Ave., Eleventh St., Fifth Ave., Tenth St., Third Ave., Seventh St., and First Ave., Havre, 89001630

NEW YORK

Jefferson County

Bedford Creek Bridge (Hounsfield MRA), Campbell's Point Rd. over Bedford Creek, Hounsfield, 89001617

Conklin Farm (Hounsfield MRA), Evans Rd., Hounsfield, 89001624

District School No. 19 (Hounsfield MRA), Co. Rd. 69, Hounsfield, 89001618

District School No. 20 (Hounsfield MRA), NY 3, S of Co. Rd. 75, Hounsfield, 89001619

East Hounsfield Christian Church (Hounsfield MRA), NY 3, Hounsfield, 89001621

Gurhrie, Dr. Samuel, House (Hounsfield MRA), Co. Rd. 75/Military Rd., Hounsfield, 89001616

Ressequie Farm (Hounsfield MRA), Parker Rd., Hounsfield, 89001622

Shore Farm (Hounsfield MRA), Military Rd., E of Mill Creek, Hounsfield, 89001623

Simmons, Stephen, House (Hounsfield MRA), Camps Mills Rd., W of Old Slat Points Rd., Hounsfield, 89001615

Star Grange No. 9 (Hounsfield MRA), Sulphur Springs Rd. between Jericho and Spencer Rds., Hounsfield, 89001626

Stevenson—Frink Farm (Hounsfield MRA), Salt Point Rd., Hounsfield, 89001625

Sulphur Springs Cemetery (Hounsfield MRA), Co. Rd. 62, SW of Spencer Rd., Hounsfield, 89001620

TEXAS

Brewster County

Daniels Farm House, W of Rio Grande Village in Big Bend National Park, Rio Grande Village vicinity, 89001627

The following property is also being considered for listing in the National Register:

PENNSYLVANIA

Bucks County

Point Pleasant Historic District Point Pleasant (Plumstead and Tinicum Townships) 89001652

The following property was erroneously listed on a previous notice as being considered for listing in the National Register. It was listed as a NHL 7/19/64.

SOUTH DAKOTA

Hanson County

Bloom Site (39HS1) Address Restricted Ethan vicinity

[FR Doc. 89-22025 Filed 9-18-89; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31432]

Consolidated Rail Corp. and CSX Transportation, Inc.—Transfer of Ownership—in Stark and Summit Counties, OH

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the transfer of ownership of a line of railroad extending from Cuyahoga Falls, OH to Warwick, OH in Stark and Summit Counties.

DATES: The exemption will be effective on October 19, 1989. Petitions for stay must be filed by September 19, 1989 and petitions to reopen must be filed by October 10, 1989.

ADDRESSES: Send pleadings referring to Finance Docket No. 31432 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(1) Petitioners' representatives:

John J. Paylor, Senior General Attorney, Consolidated Rail Corporation, 1138 Six Penn Center, Philadelphia, PA 19103.

Stephen H. Shock, Counsel, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245, [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275-1721.]

Decided: September 12, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-22067 Filed 9-18-89; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 306X)]

CSX Transportation, Inc.—Abandonment Exemption—in Lewis County, WV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903-10904 the abandonment by CSX Transportation, Inc., of 2.82 miles of rail line between milepost 22.70, near Jackson's Mill, and milepost 25.52, near Weston, in Lewis County, WV, subject to salvage and standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on October 19, 1989. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by September 29, 1989, petitions to stay must be filed by October 4, 1989, and petitions for reconsideration must be filed October 16, 1989. Requests for a public use condition must be filed by September 29, 1989.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 306X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
and
(2) Petitioner's representative: Patricia Vail, 500 Water Street—J150, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245, [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 275-1721.]

Decided: September 11, 1989.

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-22066 Filed 9-18-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Acme Associates et al.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 1989.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-23,171; Acme Associates, Long Island City, NY

TA-W-23,103; Diebold, Inc., Hamilton, OH

TA-W-22,969; Baldwin & Miller, Inc., Newark, NJ

TA-W-23,115; Magna-Tek, Inc., Paterson, NJ

TA-W-23,128; W & W Steel Co., Electric Transformer Div., Norman, OK

TA-W-23,106; Electronic Device Manufacturing, Inc., Linden, NJ

In the following cases, the investigation revealed that criterion (3)

has not been met for the reasons specified.

TA-W-23,098; C.C. Tank Rental Co., Colorado City, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,178; Blakely Construction Co., Odessa, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,136; Clarion Sintered Metals, Inc., Ridgway, PA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,130; Wildcat Well Logging, Inc., Oklahoma City, OK

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA-W-23,137; Columbus Auto Parts Co., Columbus, OH

Increased imports did not contribute importantly to workers separation at the firm.

TA-W-23,145; Hagen Tractor Sales, Inc., Paw Paw, MI

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,146; Hoke, Inc., Cresshill, NJ

Increased imports did not contribute importantly to workers' separations at the firm.

TA-W-23,189; Phillips Manufacturing Technology Center, South Plainfield, NJ

Increased imports did not contribute importantly to workers' separations at the firm.

TA-W-23,107; Ford Motor Co., Edison, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,097; Allied Signal Corp., Bendix Friction Materials Div., Troy, NY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,178; Glenn Russell, Inc., New York, NY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,114; Liberty Services, Inc., Belle Chasse, LA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,161; Trico Products Corp., Buffalo, NY

Increased imports did not contribute importantly to workers' separations at the firm.

TA-W-23,109; Ilford Photo Corp., Fairfield, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,123; Soroco Well Service, Bloomfield, NM

Increased imports did not contribute importantly to workers' separations at the firm.

TA-W-23,216; D.P.S.C., Ada, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,217; D.P.S.C., Odessa, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,218; D.P.S.C., Casper, WY

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determination

TA-W-23,116; National Leather Goods Co., Philadelphia, PA

A certification was issued covering all workers separated on or after June 22, 1988 and before August 31, 1989.

TA-W-23,127; Volkswagen of America, Inc., New Stanton, PA

A Certification was issued covering all workers separated on or after May 31, 1988.

TA-W-23,118; R.C.A. Broadcast Systems, Gibbsboro, NJ

A certification was issued covering all workers separated on or after December 8, 1988 and before January 31, 1989.

TA-W-23,162; Western Wellchems, Inc., Denver, CO

A certification was issued covering all workers separated on or after January 1, 1989.

TA-W-23,120; Robinson Drilling of Texas, Big Springs, TX

A certification was issued covering all workers separated on or after June 9, 1988.

TA-W-23,104; Dorothy Undergarment Corp., New York, NY

A certification was issued covering all workers separated on or after June 13, 1988 and before January 30, 1989.

TA-W-23,111; Lasmo Energy Corp., Tulsa, OK

A certification was issued covering all workers separated on or after June 12, 1988.

TA-W-23,112; Lasmo Energy Corp., Hays, KS

A certification was issued covering all workers separated on or after June 12, 1988.

TA-W-23,113; Lasmo Energy Corp., Great Bend, KS

A certification was issued covering all workers separated on or after June 12, 1988.

TA-W-23,149; Levolor-Lorentzen, Inc., Kent, WA

A certification was issued covering all workers separated on or after June 27, 1988.

TA-W-23,194A; Levolor-Lorentzen, Inc., Parsippany, NJ

A certification was issued covering all workers separated on or after June 27, 1988.

TA-W-23,234; Levolor-Lorentzen, Inc., Fairfield, NJ

A certification was issued covering all workers separated on or after June 21, 1988.

TA-W-23,235; Levolor-Lorentzen, Inc., Rockaway, NJ

A certification was issued covering all workers separated on or after July 19, 1988.

I hereby certify that the aforementioned determinations were issued during the month of August 1989. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: September 12, 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance

[FR Doc. 89-22089 Filed 9-18-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22.998]

AT&T Technologies, Inc. Dallas Works, Mesquite, TX; Negative Determination Regarding Application for Reconsideration

By letter of August 11, 1989, Local #6260 of the Communications Workers of America (CWA) requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance. The denial notice will be published soon in the **Federal Register.**

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The CWA claims that AT&T is producing products in Matamoros, Mexico, that would have been made in Texas. The union submitted a list of 12 product codes that are now being produced in Mexico and machinery sent to Mexico to produce them.

The AT&T workers at the Dallas Works produce power systems and cable harnesses.

The Department's denial was based on the fact that the decreased sales and production criterion of the Group Eligibility Requirements of the Trade Act was not met in 1988 compared to 1987 and in the first five months of 1989 compared to the same period in 1988.

Investigation findings show that the Dallas Works produced over 2,000 product codes in some 5,000 different active configurations per year in 1988 and 1989 for power systems and cable harnesses. The findings also show that the workers are not separately identifiable by product code. Further, of the 12 product codes cited by the union only one was produced in Mexico during the period applicable to the petition.

Investigation findings show that the Matamoros facility produces product codes that are labor intensive whose production was transferred to Matamoros prior to the period applicable to the petition. The findings show that company imports from Mexico increased during the period applicable to the petition but remained small in comparison to the production at the subject plant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 8th day of September, 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-22091 Filed 9-18-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,859 Washington, Pennsylvania; TA-W-21,859A all locations in Ohio]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; Haddad & Brooks, Inc.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 6, 1989, applicable to all workers of Haddad & Brooks, Inc., Washington, Pennsylvania.

Based on new information from the company, additional workers were separated from Haddad & Brooks in the State of Ohio. The notice for Haddad & Brooks, Inc., therefore, is amended by including all locations in the the State of Ohio.

The amended notice applicable to TA-W-21,859 is hereby issued as follows:

All workers of Haddad & Brooks, Inc., Washington, Pennsylvania, and in all locations of the State of Ohio who became totally or partially separated from employment on or after October 1, 1985, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 8th day of September, 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-22090 Filed 9-18-89; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-89-127-C]

Old Ben Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Old Ben Coal Company, 200 Public Square, 7-2306-D, Cleveland, Ohio 44114 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Mine No. 24 (I.D. No. 11-00589), its Mine No. 25 (I.D. No. 11-02392), and its Mine No. 26 (I.D. No. 11-00590), all located in Franklin County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries, and that belt haulage entries not be used to ventilate active working places.

2. The belt haulage entries are ventilated by coursing intake air through the belt entry to the loading point where it is coursed directly into an adjacent return. Tubing is provided to course the belt air across the adjacent intakes to a return in the vicinity.

3. As an alternate method, petitioner proposes to use the air in the belt entry to supplement the ventilation of active working places.

4. In support of this request, petitioner states that a low-level carbon monoxide detection system would be installed in all belt entries utilized as intake aircourses. The low-level CO system would be capable of giving warning of a fire for four hours should the power fail; a visual alert signal would be activated when the CO level is 10 ppm above the ambient level and an audible signal would sound at 15 ppm above the established ambient level. All persons would be withdrawn to a safe area at 10 ppm and evacuated at 15 ppm. The CO monitoring system would initiate the fire alarm signals at an attended surface location where there is two-way communication. This responsible person would notify the working sections and other personnel who may be endangered, when the established alert and alarm levels are reached. The CO system would be capable of identifying any activated sensor and for monitoring electrical continuity and deleting electrical malfunctions.

5. The CO monitoring system would be visually examined at least once each coal producing shift and tested for functional operation weekly to ensure the monitoring system is functioning properly. The monitoring system would be calibrated with known concentrations of CO and air mixtures at least monthly.

6. If at any time the CO monitoring system or any portion of the system has been deenergized for reasons such as routine maintenance or failure of a sensor unit, the belt conveyor may continue to operate provided the affected portion of the belt conveyor entry would be continuously patrolled and monitored for CO by a qualified person using hand-held CO detecting devices.

7. Petitioner states that the proposed alternate method will provide the same

degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1989. Copies of the petition are available for inspection at that address.

Dated: September 11, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-22084 Filed 9-18-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-137-C]

Sextet Mining Corp.; Petition for Modification of Application of Mandatory Safety Standard

Sextet Mining Corporation, 1822 North Main Street, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its West Hopkins Mine (I.D. No. 15-15691) located in Hopkins County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. Petitioner proposes to install a low-level carbon monoxide (CO) detection system in the belt entries in lieu of the heat type sensors. The monitoring devices would be located so that the air is monitored at each belt drive and tailpiece, at intervals not to exceed 2,000 feet along each conveyor belt entry, except where the belt drive does change directions but is dumping directly on the tailpiece. Where the tailpiece and belt would be on the same split of air and that air would not be used as intake air, petitioner proposes to install one monitoring device.

3. The low-level CO system would be capable of giving warning of a fire for four hours should the power fail; a visual alert signal would be activated when the CO level is 10 ppm above the ambient level and an audible signal would be activated when the CO level is 15 ppm above the ambient level. Action would be taken to determine the cause of actuation at 10 ppm and all persons would be evacuated at 15 ppm. The CO monitoring system would initiate the fire alarm signals at an attended surface location where there is two-way communication. The CO system would be capable of identifying any activated sensor and for monitoring electrical continuity and detecting electrical malfunctions.

4. The CO system would be visually examined at least once each coal producing shift and tested weekly to ensure that the system is functioning properly. The monitoring system would be calibrated with known concentrations of CO and air mixtures monthly.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1989. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Dated: September 11, 1989.

[FR Doc. 89-22085 Filed 9-18-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-130-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia 24219 has filed a petition to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device systems; installation; minimum requirements) to its Bullitt Mine (I.D. No. 44-00304) located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. On August 9, 1984, petitioner was granted a modification of 75.1103-4(a) to install an early warning fire detection system and to monitor the air with a carbon monoxide system in all belt entries utilized as intake aircourses (docket no. M-83-168-C).

2. This petition concerns paragraph 1(d) of MSHA's Decision and Order which requires that, where low-level carbon monoxide sensors are used, the velocity of the air current in the belt conveyor entry must be less than 50 feet a minute and the air current must have a definite and distinct movement in the designated direction. The velocity of the air current in the belt conveyor entry cannot exceed 300 feet per minute.

3. Paragraph 1(d) should be modified to require that the velocity of air in the belt conveyor entry be 50 feet a minute or greater and have a definite and distinct movement in the designated direction.

4. In support of this request, petitioner states that limiting velocities to 300 feet per minute seriously impairs the ability to maintain the minimum velocity of 50 feet per minute required for a definite and distinct air movement in the designated direction in section belt entries. Furthermore, restricting the air current in the belt conveyor entries to 300 feet per minute would reduce the volume of air coursed to mining sections necessary to dilute, render harmless and to carry away flammable, explosive, noxious, and harmful gases and dust and to ensure adequate ventilation for diesel equipment operated in aircourses common to the belt entries and the working section and provide adequate ventilation of gob areas.

5. For these reasons, petitioner requests an amendment to the Decision and Order granting the petition modifying the application of 30 CFR 75.1103-4(a).

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1989. Copies of the petition are available for inspection at that address.

Dated: September 11, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-22086 Filed 9-18-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-129-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia 24219 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Bullitt Mine (I.D. No. 44-00304) located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. On August 9, 1984, petitioner was granted a modification of 30 CFR 75.326 to use intake air which is coursed through belt haulage and or track entries to ventilate active working places and to install an early warning fire detection system and to monitor the air with a carbon monoxide detection system in all belt entries utilized as intake aircourses (docket no. M-83-117-C).

2. This petition concerns paragraph 1(d) of MSHA's Decision and Order which requires that, where low-level carbon monoxide sensors are used, the velocity of the air current in the belt conveyor entry must be less than 50 feet a minute and the air current must have a definite and distinct movement in the designated direction. The velocity of the air current in the belt conveyor entry cannot exceed 300 feet per minute.

3. Paragraph 1(d) should be modified to require that the velocity of air in the belt conveyor entry be 50 feet a minute or greater and have a definite and distinct movement in the designated direction.

4. In support of this request, petitioner states that limiting velocities to 300 feet per minute seriously impairs the ability to maintain the minimum velocity of 50 feet per minute required for a definite and distinct air movement in the designated direction in section belt entries. Furthermore, restricting the air current in the belt conveyor entries to 300 feet per minute would reduce the volume of air coursed to mining sections necessary to dilute, render harmless and to carry away flammable, explosive, noxious, and harmful gases and dust and to ensure adequate ventilation for diesel equipment operated in aircourses common to the belt entries and the working section and provide adequate ventilation of gob areas.

5. For these reasons, petitioner requests an amendment to the Decision and Order granting the petition modifying the application of 30 CFR 75.326.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1989. Copies of the petition are available for inspection at that address.

Dated: September 11, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-22087 Filed 9-18-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-131-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia 24219 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Bullitt Mine (I.D. No. 44-00304) located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. On September 3, 1984, petitioner was granted a modification of 30 CFR 75.1105 to use air currents which are used to ventilate transformers and rectifiers to also ventilate active working places rather than coursing such air currents into the return and to install an early warning fire detection system and to monitor the air with a carbon monoxide detection system in all belt entries utilized as intake aircourses (docket no. M-83-169-C).

2. This petition concerns paragraphs 1(d) of MSHA's Decision and Order which requires that, where low-level carbon monoxide sensors are used, the velocity of the air current in the belt conveyor entry must be less than 50 feet a minute and the air current must have a definite and distinct movement in the designated direction. The velocity of the air current in the belt conveyor entry cannot exceed 300 feet per minute.

3. Paragraph 1(d) should be modified to require that the velocity of air in the belt conveyor entry be 50 feet a minute or greater and have a definite and distinct movement in the designated direction.

4. In support of this request, petitioner states that limiting velocities to 300 feet per minute seriously impairs the ability to maintain the minimum velocity of 50 feet per minute required for a definite and distinct air movement in the designated direction in section belt entries. Furthermore, restricting the air current in the belt conveyor entries to 300 feet per minute would reduce the volume of air coursed to mining sections necessary to dilute, render harmless and to carry away flammable, explosives, noxious, and harmful gases and dust and to ensure adequate ventilation for diesel equipment operated in aircourses common to the belt entries and the working section and provide adequate ventilation of gob areas.

5. For these reasons, petitioner requests an amendment to the Decision and Order granting the petition modifying the application of 30 CFR 75.1105.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 19, 1989. Copies of the petition are available for inspection at that address.

Dated: September 11, 1989.

Patricia W. Silvey,

Director Office of Standards, Regulations and Variances.

[FR Doc. 89-22088 Filed 9-18-89; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer,

National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

1. *Date:* October 2, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review Editions applications in British Materials, submitted to the Division of Research Programs, for projects beginning after April 1, 1990.
2. *Date:* October 6, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review Editions applications in Classics and European Materials, submitted to the Division of Research Programs, for projects beginning after April 1, 1990.
3. *Date:* October 13, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review Translations applications in European Studies, submitted to the Division of Research Programs, for projects beginning after April 1, 1990.
4. *Date:* October 12–13, 1989
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review applications submitted for Humanities Projects in Media, to the Division of General Programs, for projects beginning after April 1, 1990.
5. *Date:* October 16, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review Translations applications in Asian Studies, submitted to the Division of Research Programs, for projects beginning after April 1, 1990.
6. *Date:* October 18–19, 1989
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 415
   Program: This meeting will review applications submitted for Humanities Projects in Media, to the Division of General Programs, for projects beginning after April 1, 1990.
7. *Date:* October 20, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review Translations applications in Studies in the New World, submitted to the Division of Research Programs, for projects beginning after April 1, 1990.
8. *Date:* October 23, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review Translations applications in Ancient and Medieval Studies, submitted to the Division of Research Programs, projects beginning after April 1, 1990.
9. *Date:* October 23–24, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 415
   Program: This meeting will review applications submitted to Public Humanities Projects, for the Division of General Programs, for projects beginning after April 1, 1990.
10. *Date:* October 23–24, 1989
    Time: 9:00 a.m. to 5:30 p.m.
    Room: 430
    Program: This meeting will review applications submitted to Humanities Projects in Libraries and Archives Program, for the Division of General Programs, for projects beginning after April 1, 1990.
11. *Date:* October 26–27, 1989
    Time: 8:30 a.m. to 5:30 p.m.
    Room: 415
    Program: This meeting will review applications submitted for Humanities Projects in Media, to the Division of General Programs, for projects beginning after April 1, 1990.
12. *Date:* October 26–27, 1990
    Time: 9:00 a.m. to 5:30 p.m.
    Room: 430
    Program: This meeting will review applications submitted to Public Humanities Projects Program, for the Division of General Programs, for projects beginning after April 1, 1990.
13. *Date:* October 27, 1989
    Time: 8:30 a.m. to 5:00 p.m.
    Room: 316–2
    Program: This meeting will review Translations application in European Studies (II), submitted to the Division of Research Programs, for projects beginning after April 1, 1990.
14. *Date:* October 30, 1989
    Time: 8:30 a.m. to 5:00 p.m.
    Room: 316–2
    Program: This meeting will review Translations applications in Studies in Africa and Modern Near East, submitted to the Division of Research Programs, for projects beginning after April 1, 1990.
15. *Date:* October 30–31, 1989
    Time: 9:00 a.m. to 5:30 p.m.
    Room: 430
    Program: This meeting will review applications submitted to Humanities Projects in Libraries and Archives Program, for the Division of General Programs, for projects beginning after April 1, 1990.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 89–22022 Filed 9–18–89; 8:45 am]
BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Application for License To Export Utilization Facility

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following application for an export license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the application for license to export a major component of

a nuclear reactor as defined in 10 CFR part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility to be exported. The information concerning this application follows.

NRC EXPORT LICENSE APPLICATIONS

Name of applicant, date of application, date received, application No.	Description	Value	End use	Country of destination
General Atomics, 8/30/89, 9/06/89, XR152	Two (2) Complete Control Rods	$40,000	Replacement parts for THOR Research Reactor.	Taiwan.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Assistant Director for International Security, Exports and Materials Safety International Programs Office of Governmental and Public Affairs.

Dated this 13th day of September 1989 at Rockville, Maryland.

[FR Doc. 89-22103 Filed 9-18-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommttees and meetings of the ACRS full Committee, and of the ACNW, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published August 22, 1989 (54 FR 34835). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee and ACNW meetings begin at 8:30 a.m. and ACRS Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS full Committee and ACNW meetings and when ACRS Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agendas for the October 1989 ACRS full Committee and the October 1989 ACNW meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 301/492-7288, ATTN: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

ACRS Subcommittee Meetings

Joint Severe Accidents and Probabilistic Risk Assessment, September 19, 1989, Bethesda, MD. The Subcommittees will discuss the second draft of NUREG-1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants."

Severe Accidents, September 20, 1989, Bethesda, MD. The Subcommittee will discuss the proposed Generic Letter by NRR, the NRC Research Program, and the NUMARC/EPRI activities in the accident management area.

Safety Philosophy, Technology, and Criteria, September 26, 1989, Bethesda, MD. The Subcommittee will discuss the preparation of a joint paper which gives the ACRS and NRC staff position on the concept of adequate protection.

Human Factors, September 27, 1989, Bethesda, MD. The Subcommittee will review the proposed Access Authorization Rule and performance indicators.

Advanced Pressurized Water Reactors, September 28, 1989, Bethesda, MD. The Subcommittee will discuss the WAPWR (RESAR SP/90) design.

AC/DC Power Systems Reliability, October 2, 1989, Bethesda, MD. The Subcommittee will discuss the proposed final resolution of Generic Issue B-56, "Diesel Generator Reliability," and proposed Revision 3 to Regulatory Guide 1.9, "Selection, Design, Qualification, Testing, and Reliability of Diesel Generator Units Used as Onsite Electric Power Systems at Nuclear Power Plants."

Mechanical Components, October 3, 1989, Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 87, "Failure of HPCI Steamline Without Isolation," specifically the matter of implementing current design requirements on MOVs, status of Task Action Plan on check valves, and discuss Generic Letter 89-04, "Guidance on Developing Acceptable Inservice Testing Program."

Probabilistic Risk Assessment, October 3 and 4, 1989, Bethesda, MD. The Subcommittee will have a tutorial session regarding applications of PRA.

Joint Containment Systems and Structural Engineering, October 17, 1989, Rosemont, IL. The Subcommittees will continue to discuss containment design criteria for future plants with invited speakers from industry.

Advanced Boiling Water Reactors (GE ABWR), October 31, 1989, Bethesda, MD. The Subcommittee will review the NRC staff's SER on Module One of GE ABWR.

Thermal Hydraulic Phenomena, November 8 and 9, 1989, San Jose, CA. The Subcommittee will discuss: (1) the capability of the thermal hydraulic codes to model BWR core power instability, and (2) the key thermal hydraulic design aspects of the GE ABWR related to the ECCS, and LOCA analyses.

Thermal Hydraulic Phenomena, November 14, 1989, Bethesda, MD. The Subcommittee will discuss selected topics related to the NRC-RES thermal hydraulic research program, including future research needs and the recent ACRS letter commenting on thermal hydraulic research.

General Electric Reactor Plants, November 14, 1989, Bethesda, MD. The Subcommittee will review the restart of Nine Mile Point Unit 1.

Regulatory Policies and Practices, November 15, 1989, Bethesda, MD. The Subcommittee will discuss integration of the regulatory process.

Joint Containment Systems and Structural Engineering, December 13, 1989, Bethesda, MD. The Subcommittees will continue to discuss containment design criteria for future plants with invited speakers from industry.

Joint Thermal Hydraulic Phenomena and Core Performance, Date to be determined (October/November), Bethesda, MD. The Subcommittees will continue their review of boiling water reactor core power stability pursuant to the core power oscillation event at LaSalle County Station, Unit 2.

Decay Heat Removal Systems, Date to be determined (October/November), Bethesda, MD. The Subcommittee will review the NRC staff's proposed resolution of Generic Issue 84, "CE PROVs."

Decay Heat Removal Systems, Date to be determined (November), Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 23, "RCP Seal Failures."

Advanced Pressurized Water Reactors, Date to be determined (November/December), Bethesda, MD. The Subcommittee will discuss the licensing review bases document being developed for Combustion Engineering's Standard Safety Analysis Report-Design Certification (CESSAR-DC).

Severe Accidents, Date to be determined (November/December), Bethesda, MD. The Subcommittee will discuss the NRC Severe Accident Research Program (SARP) plan.

Systematic Assessment of Experience, Date to be determined (November/December), Bethesda, MD. The Subcommittee will review the proposed power level increase for Indian Point Unit 2.

Decay Heat Removal Systems, Date to be determined, Bethesda, MD. The Subcommittee will explore the issue of the use of feed and bleed for decay heat removal in PWRs.

Thermal Hydraulic Phenomena, Date to be determined, Bethesda, MD. The Subcommittee will discuss the status of Industry best-estimate ECCS model submittals for use with the revised ECCS Rule.

Auxiliary and Secondary Systems, Date to be determined, Bethesda, MD. The Subcommittee will discuss the: (1) criteria being used by utilities to design Chilled Water Systems, (2) regulatory requirements for Chilled Water Systems design, and (3) criteria being used by the NRC staff to review the Chilled Water Systems design.

Reliability Assurance, Date to be determined, Bethesda, MD. The Subcommittee will discuss the status of implementation of the resolution of USI A-46, "Seismic Qualification of Equipment in Operating Plants," and other related matters.

Joint Regulatory Activities and Containment Systems, Date to be determined, Bethesda, MD. The Subcommittee will review the proposed final revision to Appendix J to 10 CFR Part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

Regulatory Policies and Practices, Date to be determined, Bethesda, MD. The Subcommittee will review the proposed staff program for the renewal of power plant licenses.

Materials and Metallurgy, Date to be determined, Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 29, "Bolting Degradation or Failure in Nuclear Power Plants."

ACRS Full Committee Meetings

354th ACRS Meeting, October 5-7, 1989, Bethesda, MD—Items are tentatively scheduled.

*A. *Maintenance of Nuclear Power Plants* (Open)—Complete review and comment regarding proposed NRC Policy Statement on maintenance programs for nuclear power plants.

*B. *Definition of "Adequate Protection"* (Open)—Discuss proposed ACRS-NRC staff positions regarding the definition of adequate protection related to implementation of the NRC safety goals.

*C. *Interfacing Systems LOCAs* (Open)—Briefing by NRC staff representatives regarding the status of activities to resolve concerns associated with interfacing systems LOCAs.

*D. *Generic Issue 135, "Steam Generator and Steam Line Overfill Issues"* (Open)—Review and report on proposed NRC staff resolution of this generic issue.

*E. *Generic Issue B-56, "Diesel Reliability"* (Open)—Review and report on proposed NRC staff resolution of this generic issue.

*F. *Accident Management* (Open)—Review and report on proposed accident management strategies considerations in the Individual Plant Examinations (IPEs).

*G. *Nuclear Power Plant Access Authorization* (Open)—Review and comment on NRC staff proposed rule requirements for access at nuclear power plants.

*H. *Generic Issue 87, "Failure of HPCI Steam Line Without Isolation"* (Open)—Review and report on proposed resolution of this generic issue and the performance of other values in nuclear power plants.

*I. *Standardized Nuclear Plants CANDU-3* (Open)—Briefing regarding proposed design of the CANDU-3 reactors.

*J. *Meeting with NRC Director of Research* (Open)—Discuss items of mutual interest, including status of action of the NAS report on revitalizing the research program, impact of budget reductions on the NRC program, and diversity of views and contractors in the research effort.

*K. *Advanced Pressurized Water Reactors* (Open/Closed)—Briefing by NRC staff representatives regarding the status of the review of the proposed PWR standardized nuclear steam supply systems/plants.

*L. *TMI-2 Post Accident Analyses* (Open)—Briefing by representatives of the NRC staff on the post accident analysis of the TMI-2 nuclear plant.

*M. *Appointment of ACRS Members* (Open/Closed)—Discuss qualifications of candidates for appointment to the ACRS.

*N. *Future Activities* (Open)—Discuss anticipated subcommittee activities and items proposed for consideration by the full Committee.

*O. *Subcommittee Activities* (Open)—Discuss the status of assigned subcommittee activities, including proposed containment design criteria for future LWRs.

355th ACRS Meeting, November 16-18, 1989—Agenda to be announced.

356th ACRS Meeting, December 14-16, 1989—Agenda to be announced.

ACNW Full Committee Meetings

14th ACNW Meeting, October 11-13, 1989, Bethesda, MD—The Committee has tentatively scheduled the following topics for discussion:

A. Continue Pathfinder Dismantlement Review (tentative if not completed in September)
B. Progress Report on LLW Performance Assessment Methodology
C. NRC staff position and Draft Proposed Rule for LLW Manifest
D. Meeting with H. Denton to discuss International Programs on Waste Disposal
E. Technical Position on Earthquake Hazards
F. Nominations for 1990 ACNW Officers from the floor
G. Nuclear Waste Technical Review Board—discussion scope and purpose
H. Meet with Dr. Murley, NRR to discuss: (1) Licensing LLW Handling Systems, (2) Fuel Compaction, (3) Decontamination and Decommissioning and (4) Onsite Dry Cask Storage
I. EPA Criteria for Treatment, Storage and Disposal of Mixed Radioactive and Hazardous Waste
J. Substantially Complete Containment Definition
K. Waste Acceptance Process for Defense and West Valley Wastes

No ACNW Meeting in November

15th ACNW Meeting, December 27-29, 1989—Agenda to be announced.

Dated: September 13, 1989.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 89-21996 Filed 9-18-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on AC/DC Power Systems Reliability; Notice of Meeting

The ACRS Subcommittee on AC/DC Power Systems Reliability will hold a meeting on October 2, 1989, Room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Monday, October 2, 1989—1:00 p.m. until the conclusion of business.*

The Subcommittee will discuss the proposed final resolution of Generic Issue B–56, "Diesel Generator Reliability," and proposed Revision 3 to Regulatory Guide 1.9, "Selection, Design, Qualification, Testing, and Reliability of Diesel Generator Units Used as Onsite Electric Power Systems at Nuclear Power Plants."

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepared telephone call to the cognizant ACRS staff member, Mr. Medhat El-Zeftawy (telephone 301/492–9901) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: September 11, 1989.

Gary R. Quittschreiber,

Chief, Project Review Branch No. 2.

[FR Doc. 89–21997 Filed 9–18–89; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Mechanical Components; Meeting

The ACRS Subcommittee on Mechanical Components will hold a meeting on October 3, 1989, Room P–422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Tuesday, October 3, 1989—8:30 a.m. until 12:00 Noon.*

The Subcommittee will review the proposed resolution of Generic Issue 87, "Failure of HPCI Steamline Without Isolation,"—specifically the matter of implementing current design requirements on MOVs, status of Task Action Plan on check valves; and it will discuss also Generic Letter 89–04, "Guidance on Developing Acceptable Inservice Testing Program."

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member identified below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Elpidio Igne (telephone 301/492–8192) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above-named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: September 11, 1989.

Gary Quittschreiber,

Chief, Project Review Branch No. 2.

[FR Doc. 89–21998 Filed 9–18–89; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Meeting of the Subcommittee on Probabilistic Risk Assessment; Meeting

The ACRS Subcommittee on Probabilistic Risk Assessment will hold a meeting on October 3 and 4, 1989, in Room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Tuesday, October 3, 1989–1:00 p.m. until 6:00 p.m., Wednesday, October 4, 1989–8:30 a.m. until 6:00 p.m.*

The Subcommittee will have a tutorial session regarding applications of Probabilistic Risk Assessment (PRA).

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Dean Houston (telephone 301/492–9521) or Mr. Mark Stella (telephone 301/492–

7904) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact one of the above named individuals one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: September 13, 1989.

Gary R. Quittschreiber,

Chief, Project Review Branch No. 2.

[FR Doc. 89-22104 Filed 9-18-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 128 to Provisional Operating License No. DPR-20, issued to Consumers Power Company (the licensee), which revised the Technical Specifications (TS) for operation of the Palisades Plant (the facility) located in Van Buren County, Michigan. The amendment is effective as of the date of issuance.

The amendment revised the TS relating to containment integrity. The amendment, specifically, revises Technical Specification sections 1.4, 3.6.1, and 3.6.5, and adds a new Table 3.6.1 and section 4.5.6.

The amendment was proposed by Consumers Power Company in response to an issue identified in NRC Inspection Report 88-008 dated April 22, 1988. That inspection report identified a discrepancy between the FSAR description of containment penetration 33 and the surveillance requirements specified in the TS. The amendment resolves this issue.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on June 20, 1989 (54 FR 25920). No request for hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to this action see (1) the application for amendment dated September 15, 1988, (2) Consumers Power Company letter dated June 23, 1989, (3) Amendment No. 128 to License No. DPR-20, (4) the Commission's related Safety Evaluation, and (5) Environmental Assessment dated August 31, 1989 (54 FR 36068). All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Van Zoeren Library, Hope College, Holland, Michigan 49201.

A copy of items (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III, IV, V, and Special Projects.

Dated at Rockville, Maryland this 5th day of September 1989.

For the Nuclear Regulatory Project Manager,

Albert W. De Agazio,

Senior Project Manager, Project Directorate III-1, Division of Reactor Projects III, IV, V & Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-22081 Filed 9-18-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-341]

Detroit Edison Co. Wolverine Power Supply Cooperative, Inc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 41 to Facility Operating License No. NPF-43 issued to Detroit Edison Company (the licensee), which revised the Technical Specifications for operation of Fermi-2, located in Monroe County, Michigan.

The amendment is effective as of the date of issuance.

The amendment revises Technical Specifications 3/4.3.2 and the associated tables. The table entries previously listed in a section entitled "Containment Isolation" are separated into two sections; one for Primary Containment and one for Secondary Containment isolation functions. Revisions to table entries, table notations and nomenclature are made to either more clearly reflect the plant configuration, remove duplication or ambiguity, or reflect the new sections of the table. Provisions have been included to allow routine testing of the Reactor Water Cleanup system without necessitating removal of the system from service. In addition, the definition of Channel Calibration is revised to better reflect standard industry practice.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on June 26, 1989 (54 FR 26866). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human behavior environment.

For further details with respect to the action, see (1) the application for amendment dated December 22, 1988, (2) Amendment No. 41 to License No. NPF-43, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the Local Public Document Room. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III, IV, V & Special Projects.

Dated at Rockville, Maryland, this 7th day of September 1989.

For the Nuclear Regulatory Commission.

John F. Stang,

Project Manager, Project Directorate III-1, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-22078 Filed 9-18-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-354]

Public Service Electric & Gas Co.; Atlantic City Electric Co., Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPR-57 issued to Public Service Electric & Gas Company and Atlantic City Electric Company (the licensees) for operation of the Hope Creek Generating Station, located in Salem County, New Jersey.

The proposed amendment would remove fuel cycle-specific operating limits from the Technical Specifications in accordance with the licensee's application for amendment dated May 18, 1989 and supplemented on August 21, 1989. This amendment was previously published in the **Federal Register** on June 28, 1989 (54 FR 27240) but the supplement dated August 21, 1989 (NLR-N89160) (LCR 89-12, Rev. 1) contained substantive changes to the original submittal, hence, publication is being repeated.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee's analysis contained in the August 21, 1989 (NLR-N89160) (LCR 89-12, Rev. 1) letter states the following in response to the three NRC criteria referenced above.

The proposed changes to the HCGS Technical Specifications:

1. Do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change will not affect the way that accidents will be evaluated. The accident analyses, and the associated core operating limits used as input to these analyses, will still be evaluated per General Electric Standard Application for Reactor Fuel (GESTAR II), which uses methods recognized and approved by NRC. Operation of the core will still be governed by the Limiting Conditions for Operation (LCOs), the requirements of which remain unchanged, but the limiting parameters for core operation in these LCOs will be reported in a separate document (CORE OPERATING LIMITS REPORT). Administratively controlling the limiting parameters in a separate document will not increase the probability of an accident occurring, nor increase the potential consequences of an accident, because the evaluation method is the same as that previously approved by the NRC.

Therefore, PSE&G has concluded that this amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Removing cycle-specific Technical Specifications in favor of placing them in the CORE OPERATING LIMITS REPORT and referencing them in the Technical Specifications does not involve any physical plant modifications per se, nor does it introduce any new operational configurations. It does, however, offer the flexibility to refuel and restart and perform certain core design changes without cycle-specific Technical Specification amendments. These activities are still controlled by the Technical Specifications via reference to the CORE OPERATING LIMITS REPORT. NRC approved methodologies are still used to implement the changes, and plant specific evaluations pursuant to 10 CFR 50.59 will be performed as required.

Therefore, PSE&G has concluded that this amendment request does not introduce any new or different kind of accident from those previously evaluated.

3. Do not involve significant reduction in a margin of safety.

The development of core operating limits will still be done using the methods of GESTAR II, which have been previously approved by the NRC. These methods will set the limiting parameters for core operation such that the Safety Limits as defined by the Technical Specifications and UFSAR safety analyses are not challenged. This proposed amendment will change the mechanism which reports these core operating limits. The methodology for establishing the core operating limits has not been changed.

Therefore, this amendment request does not involve a significant reduction in a margin of safety as defined in the basis for any Technical Specification.

The staff has evaluated this proposed amendment and proposes to determine that it involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments should be addressed to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 19, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition

should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW. Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Walter R. Butler, Director, Project Directorate I-2, Division of Reactor Projects I/II; petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Conner and Wetterhahn, 1747 Pennsylvania Avenue NW., Washington, DC 20006, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 18, 1989, as amended and supplemented on August 21, 1989, (NLR-N89160) (LCR 89-12, Rev. 1) which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW. Washington, DC 20555, and at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Dated at Rockville, Maryland, this 13th day of September 1989.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-2 Division of Reactor Projects I/II.

[FR Doc. 89-22079 Filed 9-18-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket 70-25; ASLBP No. 89-594-01-ML]

Rockwell International Corp.; Limited Appearance Statement; Prehearing Conference

September 12, 1989.

In the matter of Atomic Safety and Licensing Board. Before Administrative Judge: Peter B. Bloch. In the matter of Rockwell International Corporation Rocketdyne Division (Special Material License Number SNM-21). Request to renew for ten years.

I Limited Appearances

Pursuant to 10 CFR 2.1211, on September 28, 1989 from 7:00 pm to approximately 10:30 pm, I will conduct a limited appearance session—open to the public—in Room 120 ("the hearing room"), 6150 Van Nuys Boulevard, Van Nuys, CA 91401. People wishing to speak at that session may obtain speaking priority by notifying me in person c/o U.S. Nuclear Regulatory Commission, Washington, DC 20555, by letter mailed on or before September 21, 1989.

Limited appearances may be in writing or oral; they are not considered to be a part of the decisional record and may not therefore form a basis for my opinion in this case. Limited appearances will, however, be closely listened to. Should they contain material germane to the issues of this case, methods will be sought to incorporate the germane material into the record.

I expect to limit the maximum time permitted for a limited appearance statement to from five to ten minutes, depending on how many people seek to appear. The time limit will be announced at the beginning of the session.

II Prehearing Conference

At 9:30 am, Friday, September 29, 1989, in the same hearing room as above, I will conduct a public prehearing conference for the purpose of hearing oral argument concerning the admission of parties to this case pursuant to 10 CFR 1.205F (d) and (g).

Should I reach a preliminary determination that one or more parties shall be admitted, or are likely to be admitted, then the conference will be continued for the purpose of adopting a schedule for the filings in this proceeding.

Respectfully Ordered,

Peter B. Bloch,

Administrative Judge (Presiding Officer).

[FR. Doc. 89-21999 Filed 9-18-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-224]

The University of California, Berkeley; Order Authorizing Dismantling of Facility and Disposition of Component Parts

By application dated January 8, 1988, as supplemented on January 31, 1989 and April 14, 1989, the University of California, Berkeley (the licensee) requested authorization to dismantle the TRIGA research reactor facility, License No. R-101, located on the licensee's campus in Berkeley, California and to dispose of the component parts, in accordance with the plan submitted as part of the application. A "Notice of Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License" was published in the Federal Register on March 10, 1988 (53 FR 7823). The City of Berkeley filed a "Petition To Intervene In License Amendment Proceeding, Request for Hearings and Further Relief." The City and the licensee held discussions, arrived at a settlement agreement and filed a "Joint Motion For Dismissal Of Hearing Procedure" with the Atomic Safety and Licensing Board. The Board issued an Order on January 5, 1989 to dismiss the proceeding.

The Nuclear Regulatory Commission (the Commission) has reviewed the application in accordance with the provisions of the Commission's rules and regulations and has found that the dismantling and disposal of component parts in accordance with the licensee's dismantling plan will be in accordance with the regulations in 10 CFR chapter 1, and will not be inimical to the common defense and security or to the health and safety of the public. The basis of these findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact for the proposed action. Based on that Assessment, the Commisison has determined that the proposed action will not result in any significant environmental impact and that an environmental impact statement need not be prepared.

Accordingly, the licensee is hereby ordered to dismantle the TRIGA reactor facility covered by License No. R-101, as amended, and dispose of the component parts in accordance with its dismantling plan and the Commission's rules and regulations.

After completion of the dismantling and disposal, the licensee will submit a report on the radiation survey it has performed to confirm that radiation and surface contamination levels in the facility area satisfy the values specified in the dismantling plan and in the Commission's quidance. Following an inspection by representatives of the Commission to verify the radiation and contamination levels in the facility, consideration will be given to issuance of a further order terminating Facility License No. R-101.

For further details with respect to this action, see: (1) The licensee's application for authorization to dismantle the facility, dispose of component parts, and terminate Facility License No. R-101, dated January 8, 1988, as supplemented; (2) the Commission's Safety Evaluation; and (3) the Environmental Assessment and Finding of No Significant Impact. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC. Copies of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland this 12th day of September 1989.

For the Nuclear Regulatory Commission.

Gary M. Holahan,

Acting Director, Division of Reactor Projects—III, IV, V and Special Projects Office of Nuclear Reactor Regulation.

[FR Doc. 89-22080 Filed 9-18-89; 8:45 am]

BILLING CODE 7590-01

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Issuance of Amendment To Facilitate Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 118 to Facility Operating License No. DPR-39 and Amendment No. 107 to Facility Operating License No. DPR-48 issued to Commonwealth Edison Company, which revised the Technical Specifications for operation of the Zion Station, Units 1 and 2, located in Lake County, Illinois. The amendments were effective as of the date of its issuance.

These amendments permit temporary one-time changes to Zion Technical Specifications regarding Auxiliary Electric Power that would allow performing extensive preventive maintenance, in accordance with the manufacturer's recommendations, on the diesel generator that is shared between the two units.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on July 20, 1989 (54 FR 30485). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact related to this action and has determined not to prepare an environment impact statement. Based upon the Environmental Assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the actions see (1) the application for amendment dated July 6, 1989, as supplemented August 4, August 10 and August 24, 1989 (2) Amendment Nos. 118 and 107 to License Nos. DPR-39 and DPR-48 respectively, (3) the Commission's related Safety Evaluation and Environmental Assessment and Finding of No Significant Impact. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW (lower level), and at the local Public Document Room, Waukegan Public Library, 120 N. County Street, Waukegan, Illinois 60085. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Dated at Rockville, Maryland, this 8th day of September 1989.

For the Nuclear Regulatory Commission.

Paul C. Shemanski,

Acting Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–21955 Filed 9–14–89; 9:41 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–27235; File No. SR–Amex–89–10]

Self-Regulatory Organizations; American Stock Exchange, Inc., Order Approving Proposed Rule Change Relating to Bid-Ask Differentials and the Responsibility of Specialist To Make Ten-Up Markets

On May 3, 1989, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposal that, among other things, narrows the maximum allowable bid-ask differentials for certain options quotations and requires specialists to make ten-up markets.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 25834 (May 18, 1989), 54 FR 22643 (May 25, 1989). No comments were received on the proposed rule change.

The Exchange proposes to add a new Exchange Rule 958A that requires a specialist to fill public customer orders to a minimum depth of ten contracts at the best bid or offer displayed on the specialist's screen when the order reaches the specialist's post ("ten-up requirement"). Under the proposal, the responsibility to make ten-up markets will apply to all options series expiring in the two nearest term months. The ten-up requirement, however, does not apply during a rotation and a floor official may determine that an exception to the rule is warranted for, among other things, an obvious error in the posting of the displayed market quote or a change in market conditions.[4] Moreover, specialists are not required to display as a market quotation bids or offers of a Registered Options Trader ("ROT") for less than ten contracts.

Additionally, the Exchange proposes to narrow the maximum permissible spread between bids and offers for certain options contracts. Specifically, the Exchange proposes to permit bidding and offering so as to create a difference of no more than ¼ of $1 between the bid and offer for each options contract for which the prevailing bid is less than $2. At present, the ¼ of $1 differential is applicable for options contracts where the prevailing bid is $1 or less; therefore, the proposal will result in narrower spreads for bids and offers greater than $1 but less than $2.[5]

The Exchange also proposes to modify the permissible bid-ask differential provisions for stock options that are in-the-money. Currently, the bid-ask differential provisions apply to in-the-money options without any stipulations. The Exchange proposes that, in connection with in-the-money series in which the quote differential in the underlying security is greater than the maximum allowable bid-ask differential permitted by Rule 958(c), the permissible bid-ask differential for the respective option series may be identical to the differential between the bid and offer quotation in the underlying security.

Finally, the AMEX proposes to clarify the obligation of a specialist to maintain a fair and orderly market in options transactions. Specifically, the Exchange proposes, by adding a new Commentary .01 to Rule 950, to codify its long existing policy of requiring specialist's to adhere to the maximum permissible bid-ask differentials applicable to ROTs.

The Exchange believes that the proposed rule changes are designed to promote just and equitable principles of trade and protect the investing public.

The Commission believes the Amex proposal will provide public customers with the benefits of ten-up markets.[6] Specifically, public customers will be assured order execution to a minimum depth of ten contracts at the best bid or offer in those options series subject to the ten-up requirement. In addition, the proposal should encourage specialists and ROTs to become more competitive in making larger sized markets, thereby facilitating transactions in securities and contributing to a more free and open market. Moreover, as the Commission has not received any negative comments from specialists potentially affected by the proposal, the Commission has no reason to believe that the ten-up requirement will be particularly burdensome on them.

The Commission also believes that narrowing the maximum allowable bid-ask differential for an options contract bid greater than $1 and less than $2 will result in improved price continuity and tighter, more liquid markets. All orders, including public customer orders, will benefit from the narrower bid-ask differentials. In addition, the Commission believes that, in light of the narrower bid-ask differentials and the ten contract execution guarantee, it is reasonable to permit in-the-money options quotations to reflect the market conditions of the underlying securities, even though such a rule will increase the instances that a narrower bid-ask differential will be bypassed. In this regard, the Commission previously has permitted quotations for in-the-money options to be identical to spreads in the underlying market [7] and the Commission agrees with the Amex that this exemption from the bid-ask differential requirements will occur only in rare circumstances, and, as a result, will have a minimal impact on the market.[8]

Finally, the Commission believes that the Amex, by amending its rules to clarify that specialists are required to adhere to the maximum permissible bid-ask differentials applicable to ROTs, will eliminate any investor confusion

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[1] 15 U.S.C. 78s(b)(1) (1984).

[2] 17 CFR 240.19b–4 (1988).

[3] The Amex also proposes to delete the reference to Rule 170 in Rule 950(a) and add Rule 950(n) to state specifically that Rule 170 and commentaries .03 and .04 to the Rule are applicable to options trading.

[4] The Exchange filed an amendment to clarify that the ten-up market requirement applies at the displayed market quote unless a floor official determines an exception is warranted. As originally proposed, the requirement would have applied to quotations "displayed on a reasonably current basis as determined by market conditions." *See* letter from Ellen T. Kander, Staff Attorney, AMEX, to Mark McNair, Division of Market Regulation, SEC, dated July 18, 1989.

[5] The Amex also proposes to amend Rule 958(c) to clarify the bid-ask differential requirement for options quotations where the prevailing bid is exactly $20. Specifically, the amended proposal requires that the bid-ask differential shall be no more than ¾ of $1 where the prevailing bid is more than $10 but equal to or less than $20, and no more than $1 where the prevailing bid is greater than $20. *See* letter from Ellen T. Kander, Staff Attorney, AMEX, to Thomas R. Gira, Branch Chief, Division of Market Regulation, SEC, dated July 31, 1989.

[6] Other exchanges also have extended the benefits of ten-up markets to public customer orders. The Commission approved a Philadelphia Stock Exchange, Inc. ("Phlx") proposal in June 1987 requiring PHLX specialists to provide ten-up markets for options series that are at, just in, and just out-of-the-money. *See* Securities Exchange Act Release No. 24580 (June 11, 1987), 52 FR 23120 (June 17, 1987). Moreover, the Commission approved a rule change by the PHLX to extend the ten-up requirement to all options series. *See* Securities Exchange Act Release No. 26069 (March 27, 1989), 54 FR 13282 (March 31, 1989). Additionally, the Commission recently approved a Chicago Board Options Exchange, Inc. ("CBOE") proposal that obliges the trading crowd to make ten-up markets for options series that the CBOE includes in a pilot program. *See* Securities Exchange Act Release No. 26924 (June 21, 1989), 54 FR 26284 (June 22, 1989).

[7] *See* Securities Exchange Act Release No. 26924 (June 21, 1989), 54 FR 26284 (June 22, 1989).

[8] *See* Letter from Ellien Kander, *supra*, note 4.

concerning the applicability of the requirements and stress to specialists and public customers the importance of the differential requirements.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular sections 6 and 11A.[9] Specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act because it will promote just and equitable principles of trade, protect investors, and promote the public interest by assuring narrower bid-ask differentials and a minimum ten contract execution of public customers' orders. Also, the Commission finds that the proposal is consistent with sections 11A(a)(1) (ii) and (iv) because it will promote "fair competition among brokers and dealers" and "the practicability of brokers executing investors' orders in the best market."

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (SR–AMEX–89–10) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Dated: September 11, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–22026 Filed 9–18–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27240; File No. SR–CBOE–89–13]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to Position Limits

On July 5, 1989, the Chicago Board Options Exchange, Inc. ("CBOE' or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to clarify the intent of the position limit rule.

The proposed rule change was published for comment in Securities Exchange Act Release No. 27037 (July 14, 1989), 54 FR 30805 (July 24, 1989). No comments were received on the proposed rule change.

Currently, the position limit rule prohibits a member from making an opening options transaction for any account in which it has an interest or for the account of any customer, if the member believes that as a result of such transaction the member or its customer would, acting alone or in concert with others, directly or indirectly, control an aggregate position in excess of established position limits.

In the current rule filing, the CBOE proposes to clarify the intent of the position limit rule. Specifically, under the proposed rule, if a member becomes aware of a position limit violation in any account in which it has an interest or in a customer account, the member must take the action necessary to bring the position into compliance. The Exchange believes that the rule change is necessary to clarify recent questions regarding the clause that implies a member must handle the order that causes a customer to exceed the position limits. The proposed rule specifically states that a member must take corrective action once the member becomes aware of the violation. The Exchange states that the requirement will be present whether the violation results from position telescoping, Clearing Member Transfer Account ("CMTA") executions or other means in which the member does not specifically handle an order resulting in an opening transaction that causes a position limit violation.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6.[3] Specifically, the Commission believes that clarifying the position limit rule will decrease member confusion regarding the functioning of the rule, thereby ensuring that members take prompt action to bring position into compliance with the rule if they become aware of a position limit violation. The Commission also believes the rule change serves to prevent the circumvention of the position limit rule which was designed to prevent the establishment of large option positions that can be used to manipulate or disrupt the underlying market to the benefit of the option position, thereby preventing fraudulent and manipulative acts and practices, and protecting investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change (SR–CBOE–89–13) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Dated: September 12, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–22027 Filed 9–18–89; 8:45 am]

BILLING CODE 8010–01–M

SELECTIVE SERVICE SYSTEM

Senior Executive Service Performance Review Board; Appointments of Members

Announcement is made of the appointment of the following persons as members of the SES Performance Review Board for the Selective Service System: William Olmstead, Executive Director, Administrative Conference of the United States; Gary Edles, General Counsel, Administrative Conference of the United States; and Earl R. Ohman, General Counsel, The Occupational Safety and Health Review Commission.

The announcement of July 18, 1983, 48 FR 33578 is cancelled.

Dated: September 11, 1989.

Samuel K. Lessey, Jr.,

Director.

[FR Doc. 89–22024 Filed 9–18–89; 8:45 am]

BILLING CODE 8015–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 89–073]

Lower Mississippi River Waterway Safety Advisory Committee; Reestablishment

AGENCY: Coast Guard, DOT.

ACTION: Notice of reestablishment.

SUMMARY: The Secretary of Transportation has approved the reestablishment of the Lower Mississippi River Waterway Safety Advisory Committee. The purpose of the Committee is to provide local expertise on such matters as communications, surveillance, traffic control, anchorages, and other related topics dealing with waterway safety in the Lower Mississippi River area as required by the Coast Guard.

FOR FURTHER INFORMATION CONTACT: Commander G.A. Bird, USCG, Executive Secretary, Lower Mississippi River

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[9] 15 U.S.C. 78f and 78k–1 (1984).

[10] 15 U.S.C. 78s(b)(2) (1964).

[11] 17 CFR 200.30–3(a)(12) (1988).

[1] 15 U.S.C. 78s (b)(12) (1984).

[2] 17 CFR 240.19b–4 (1988).

[3] 15 U.S.C. 78f (1982).

[4] 15 U.S.C. 78s (b)(2) (1982).

[5] 17 CFR 200.30–3(a)(12) (1988).

Waterway Safety Advisory Committee, c/o Commander Eighth Coast Guard District (oan), Room 1141, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Telephone number (504) 589-6234.

This notice is issued under authority of the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. App. 1.

Dated: September 13, 1989.

Robert T. Nelson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 89-22059 Filed 9-18-89; 8:45 am]

BILLING CODE 491014-M

[CGD 89-074]

Meeting of the Subcommittee on Marine Occupational Safety and Health, Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Notice is given here of a meeting of the Subcommittee on Marine Occupational Safety and Health of the Chemical Transportation Advisory Committee (CTAC). The meeting will be held on Thursday, October 19, 1989 in Room 2415, U.S. Department of Transportation, Coast Guard Headquarters Building 2100 Second Street SW., Washington, DC. The meeting is scheduled to begin at 9:30 a.m. and end by 3:30 p.m. During their meeting this past June, the subcommittee received reports from its four working groups whose subjects are: Recognition and evaluation of maritime hazards; control of exposures; training; and program audit surveys. The purpose of the October meeting will be to review and discuss in detail the working group reports and to form a new working group to evaluate equipment used to effect rescues from enclosed spaces.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Joseph Ocken, U.S. Coast Guard Headquarters (G-MTH-1), 2100 Second Street SW., Washington, DC. 20593-0001, (202) 267-1577.

Dated: September 12, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-22060 Filed 9-18-89; 8:45 am]

BILLING CODE 491014-M

Federal Aviation Administration

Proposed Advisory Circular—Electrical Fault and Fire Prevention and Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed advisory circular and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) concerning guidance for minimizing the potential for electrically-caused faults, overheat, smoke, or fires in transport category airplanes. Acceptable means are provided for containing fires, or minimizing the effects of fires or faults, when they do occur.

DATES: Comments must be received on or before January 18, 1990.

ADDRESS: Send all comments on the proposed AC to the Federal Aviation Administration, Attention: Transport Standards Staff, ANM-110, Transport Airplane Directorate, Aircraft Certification Service, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patricia Siegrist, Regulations Branch, ANM-114, at the above address, telephone (206) 431-2126.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the subject AC may be obtained by contacting the person named above under "FOR FURTHER INFORMATION CONTACT." Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters must identify the subject of the AC and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Transport Standards Staff before issuing the final AC.

Discussion

Service experience over a long period of time shows that electrically-caused fires and other effects of electrical faults have occasionally caused substantial airplane damage, personal injury and, in some cases, fatalities. This draft advisory circular provides guidance on design techniques that are known to minimize the potential for electrical faults and their occasional hazardous effects.

Issued in Seattle, WA, on September 7, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 89-22040 Filed 9-18-89; 8:45 am]

BILLING CODE 4910-13-M

Approval of Noise Compatibility Program, Fort Lauderdale-Hollywood International Airport, Fort Lauderdale, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program submitted by the Board of County Commissioners, Broward County, Florida, under the provisions of Title I of the Aviation Safety and Noise Abatement Act (ASNA) of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On March 29, 1989, the FAA determined that the noise exposure maps submitted by the Board of County Commissioners, Broward County, Florida, under part 150, were in compliance with applicable requirements. On August 25, 1989, the Administrator approved the Fort Lauderdale-Hollywood International Airport Noise Compatibility Program. All of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Fort Launderdale-Hollywood International Airport Noise Compatibility Program is August 25, 1989.

FOR FURTHER INFORMATION CONTACT: Tommy J. Pickering, Airports Planning and Development Specialist, Federal Aviation Administration, Orlando Airports District Office, 4100 Tradecenter Street, Orlando, Florida 32827-5096, (407) 648-6583. Documents reflecting this FAA action may be reviewed at ths time location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatability Program for the Fort Lauderdale-Hollywood International Airport, effective August 25, 1989.

Under section 104(a) the Aviation Safety and Noise Abatement Act (ASNA) of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA as

noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such program to be developed in consultation with interested and affected parties including local communities, government agencies, airport uses, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgement for that if the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval or FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against type or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government;

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitation with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office, Orlando, Florida.

The Board of County Commissioners, Broward County, Florida, submitted to the FAA on January 12, 1989, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from January 21, 1986 through March 20, 1989. The Fort Launderdale-Hollywood International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on March 29, 1989. Notice of this determination was published in the **Federal Register** on April 12, 1989.

The Fort Lauderdale-Hollywood International Airport study contains a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion and/or beyond the year 1992. It was requested that FAA evaluate and approve this material as a Noise Compatibility Program, as described in section 104(b) of the Act. The FAA began its review of the program on March 29, 1989, and was required by a provision of the Act to approve or disapprove the program within 180 days. Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained thirteen (13) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective August 25, 1989.

Outright approval was granted for ten (10) of the specific program elements and partial approval was granted for two (2) elements. The approval action was for the following program elements:

NOISE CONTROL ALTERNATIVES

Measure No.	Description	FAA action
1	Preferential Flight Tracks.	Approved.
2	Noise Abatement Departure Procedures.	Approved.
3	Preferential Runway Use.	Approved. Subject to FAA approval of the revised Tower Order.
4	Displaced Thresholds.	Disapproved for purposes of part 150. The runway thresholds are displaced for safety clearance purposes, rather than for noise abatement purposes.
5	Establish Runup Monitoring Program.	Approved. Program establishment and subsequent monitoring are approved. Any restriction to pre-takeoff runups or any establishment of fines resulting from any monitoring are specifically not included in this approval.
6	Construction of Noise Barrier South of and Parallel to Runway 9R/27L (Greenbelt Buffer).	Approved. This measure is approved for noise reduction purposes only. Any landscape/park development enhancement beyond the basic berm construction and vegetation stabilization needed to achieve the 10 db reduction is not included in this approval since it is not related to noise abatement.
NOISE MITIGATION ALTERNATIVES		
1	Acquisition of Real Property (condemnation, if necessary).	Approved.
2	Acoustical treatment.	Approved.
3	Acquisition of Real Property (at Homeowner's Request).	Approved.
4	Purchase Assurance Program or Easements.	Approved.
5	Incorporation of Airport Noise Zone in Broward.	Approved.
6	Seat on Development Review Committee.	Approved.
7	Implementation of the Airport Zoning Ordinance.	Approved.

These determination are set forth in detail in a Record of Approval endorsed by the Administrator on August 25, 1989. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Board of County Commissioners, Broward County, Florida.

Issued in Orlando, Florida, on August 29, 1989.

James E. Sheppard,

Manager, Orlando Airports District Office.

[FR Doc. 89-22042 Filed 9-18-89; 8:45 am]

BILLING CODE 4910-13-M

Artisan Liens on Aircraft; Recordability

AGENCY: Federal Aviation Administration.

ACTION: Notice.

SUMMARY: This notice of legal opinion is issued by Aeronautical Center Counsel to provide legal advice to the Aircraft Registration Branch, Mike Monroney Aeronautical Center, Oklahoma City, Oklahoma, also identified as the FAA Aircraft Registry. Since December 17, 1981, the Assistant Chief Counsel for the Aeronautical Center has issued opinions in the **Federal Register** of those states from which artisan liens will be accepted for recordation by the FAA Aircraft Registry. This opinion is to advise interested parties of the addition of the State of Texas to that list.

DATE: September 13, 1989.

ADDRESS: Copies of prior opinions on the recordability of artisan liens from states which have statutes authorizing their recording may be obtained from: Assistant Chief Counsel for the Aeronautical Center, AAC-7, P.O. Box 25082, Oklahoma City, OK 73125-4904.

FOR FURTHER INFORMATION CONTACT: R. Bruce Carter, Office of Assistant Chief Counsel, address above, or by calling (405) 680-3296; (FTS 747-3296).

SUPPLEMENTARY INFORMATION: In the December 17, 1981, **Federal Register**, Vol. 46, No. 242, page 61528, the Federal Aviation Administration, Mike Monroney Aeronautical Center, published its legal opinion on the recordability of artisan liens, with the identification of those states from which artisan liens would be accepted. In the April 23, 1984, **Federal Register**, Vol. 49, No. 79, page 17112, we advised that Florida, Nevada, and New Jersey had passed legislation which, in our opinion, allows the Aircraft Registry to accept artisan liens from those states. In the June 10, 1986, **Federal Register**, Vol. 51, No. 111, page 21048, we advised that Minnesota and New Mexico had passed legislation which, in our opinion, allows the Aircraft Registry to accept artisan liens from those states. In the June 23, 1988, **Federal Register**, Vol. 53, No. 121, page 23716, we advised that Missouri had passed legislation which, in our opinion, allows the Aircraft Registry to accept artisan liens from that state.

The purpose of this opinion is to advise interested parties in the aviation community that in addition to those states identified in the June 23, 1988 publication, Texas is identified as a state from which artisan liens will be accepted.

The complete list of states from which artisan liens on aircraft will be accepted as of this date are:

Alaska	Nebraska
Arkansas	Nevada
Florida	New Jersey
Georgia	New Mexico
Illinois	Oklahoma
Indiana	Oregon
Kansas	South Carolina
Kentucky	South Dakota
Maine	Texas
Virgin Islands	Minnesota
Washington	Missouri
Wyoming	

Issued in Oklahoma City on September 1989.

Joseph R. Standell,

Assistant Chief Counsel for the Aeronautical Center.

[FR Doc. 89-22039 Filed 9-18-89; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of change of time and of agenda of previously announced public meeting.

SUMMARY: This notice is to advise interested persons that the agenda and the time of the public meeting previously announced in the **Federal Register** (54 FR 30499) on July 20, 1989, is being changed. Previously, the meeting announced in the **Federal Register** on July 20, 1989, was scheduled to begin at 12:30 p.m. on September 29, 1989. However, RSPA has found it necessary to change that starting time to 9:30 a.m. In addition to discussing the issues that would be presented at the next meeting of the International Civil Aviation Organization's (ICAO) Dangerous Goods Panel (DGP), RSPA will report the results of the first session of the United Nation's Sub-Committee of Experts on the Transport of Dangerous Goods.

DATE: September 29, 1989, 9:30 a.m.

ADDRESS: Room 8236, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, International Standards Coordinator, Office of Hazardous Materials Transportation, Department of Transportation, Washington, DC 20590; (202) 366-0656.

SUPPLEMENTARY INFORMATION: In addition to these topics announced on July 20, 1989, this meeting will be used to: (1) review the progress made by the first session of the Sub-Committee of Experts on the Transport of Dangerous Goods in completing its work program for the 1989-1990 biennium; and (2) begin preparation for the Sub-committee's second session to be held 15 to 26 January 1990. Items to be covered include classification and grouping criteria for energetic substances; application of performance packaging test requirements to minor variations of previously tested combination packages; requirements for infectious substances; revision of the classification and groups in criteria for gases; adoption of a generic classification system for all classes of dangerous goods; proposed amendments to the requirements for explosives and other proposed amendments to the United Nations Recommendations on the Transport of Dangerous Goods.

Issued in Washington, DC, on September 13, 1989.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 89-22023 Filed 9-18-89; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATE: The meeting will be held October 25 and 26, 1989.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:AP:AS:4 901 D Street, SW., Washington, DC. 20024 Telephone No. (202) 252–8128, (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), that a closed meeting of the Art Advisory Panel will be held on October 25 and 26, 1989 in Room 119 beginning at 9:30 a.m., Aerospace Center Building, 901 D Street, SW., Washington, DC. 20024.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7) of Title 5 of the United States Code, and that the meeting will not be open to the public.

The Commissioner of Internal Revenue has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Fred T. Goldberg,

Commissioner.

[FR Doc. 89–22018 Filed 9–18–89; 8:45am]

BILLING CODE 4830-01-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (203C), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: September 7, 1989.

By direction of the Secretary.

David N. Stone,

Executive Assistant Office of Information Management and Statistics.

Extension

1. Veterans Benefits Administration
2. Escrow Agreement for Postponed Exterior Onsite Improvements
3. VA Form 26–1849
4. This form is a legal agreement between builder/seller, lender, and escrow agent covering escrow of funds for unfinished exterior onsite improvements of newly constructed housing proposed for guaranteed financing under 38 U.S.C. 1810. Execution of the agreement permits VA guaranty of veteran's home loan and his/her occupancy of property.
5. On occasion.
6. Individuals or households, business or other for-profit.
7. 32,000 responses.
8. Because escrow agreements are a common practice in the mortgage lending industry, only one burden hour is being reported for the entire collection.
9. Not applicable.

Extension

1. Veterans Benefits Administration
2. Statement of Purchaser or Owner Assuming Seller's Loan
3. VA Form 26–6382
4. The requested information on this form is used to make determinations necessary for release of liability and substitution of entitlement of veteran-sellers to the government on guaranteed, insured and direct loans.
5. On occasion.
6. Individuals or households, business or other for-profit.
7. 18,000 responses.
8. ¼ hour.
9. Not applicable.

[FR Doc. 89–22037 Filed 9–18–89; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 180
Tuesday, September 19, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

September 14, 1989.

TIME AND DATE: 10 a.m., Wednesday, September 20, 1989.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor on behalf of Jack Winninghoff* v. *Black Pine Mining Company*, Docket No. WEST 89-79-D. (Issues include consideration of a petition for interlocutory review.)
2. *Robert Simpson* v. *Kenta Energy, Inc.*, Docket No. KENT 83-155-D. (Consideration of a motion to remand.)
3. *Ronald Tolbert* v. *Chaney Creek Coal Corporation*, Docket No. KENT 86-123-D. (Consideration of a motion to reopen and remand.)

It was determined by a unanimous vote of Commissioners that these items be considered in closed session.

FOR FURTHER INFORMATION CONTACT: Jean Ellen (202) 653-5629; (202) 708-9300 for TDD Relay; 1-(800) 877-8339 for Toll Free.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 89-22199 Filed 9-15-89; 1:27 pm]

BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, September 25, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposal's regarding a Federal Reserve Bank's building requirements.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 15, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-22235 Filed 9-15-89; 3:09 am]

BILLING CODE 6210-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of September 18, 25, October 2, and 9, 1989.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of September 18

Wednesday, September 20

10:00 a.m.
Briefing on EPRI Design Requirements Document for Advanced Light Water Reactors (Public Meeting)

Thursday, September 21

10:00 a.m.
Briefing on Study of Adequacy of Regulatory Oversight of Materials Under a General License (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of September 25—Tentative

Wednesday, September 27

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 2—Tentative

There are no meetings scheduled for the Week of October 2.

Week of October 9—Tentative

Thursday, October 12

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: By a vote of 4-0 on September 14, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required that "Affirmation of Applicants' Request for an Exemption from Requirements for an Onsite Exercise at Seabrook" (Public Meeting), scheduled for September 15, be held on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meetings Call (Recording)—(301) 492-0292

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

Dated: September 14, 1989.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 89-2225 Filed 9-15-89; 2:19 pm]

BILLING CODE 7590-01-M

POSTAL SERVICE BOARD OF GOVERNORS

NOTICE OF VOTE TO CLOSE MEETING

At its meeting on September 11, 1989, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for October 2, 1989, in Norman, Oklahoma. The meeting will involve: (1) Discussion of possible strategies in collective bargaining negotiations and (2) consideration of a capital investment for a dormitory project at the Postal Service's Technical Training Center in Norman.

As to the first item, the Board determined that, pursuant to section 552b(c)(3) of Tilte 5, United States Code, and section 7.3(c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under Chapter 12 of Title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of Title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of Title 5, United States Code, and section 7.3(i) of Title 39, Code of Federal Regulations, this discussion is exempt because it is likely to disclose information, the premature

disclosure of which is likely to frustrate significantly proposed Postal Service action.

As to the second item, the Board determined that pursuant to section 552b(c)(9)(B) of Title 5, United States Code, and section 7.3(i) of Title 39, Code of Federal Regulations, discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act, [5 U.S.C. 552b(b)], because it is likely to disclose information, the premature disclosure of which would likely significantly frustrate the implementation of a proposed procurement action.

In accordance with section 552b(f)(1) of Title 5, United States Code, and section 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to section 410(c)(3) of Title 39, United States Code, and section 552b(c)(3) and (9)(B) of Title 5, United States Code, and section 7.3(c) and (i) of Title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary for the Board, David F. Harris, at (202) 268–4800.

David F. Harris,

Secretary.

[FR Doc. 89–22215 Filed 9–15–89; 2:18 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Agency, Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [54 FR 38322, Friday, September 15, 1989.]

STATUS: Closed meeting.

PLACE: 450 Fifth Street NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday, September 11, 1989.

CHANGES IN THE MEETING: Deletion/ additional meeting.

The following item was not considered at a closed meeting on Tuesday, September 12, 1989, at 2:30 p.m.

Litigation matter.

The following items were considered at a closed meeting on Thursday, September 14, 1989, at 4:00 p.m.

Institution of injunctive action.
Settlement of injunctive action.
Institution of administrative proceeding of an enforcement nature.
Settlement of administrative proceeding of an enforcement nature.
Opinion.
Litigation matter.

Commissioner Fleischman, as duty officer, determined that Commission business required the above changes.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Underhill at (202) 272–2000.

Dated: September 14, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–22244 Filed 9–15–89; 3:55 pm]

BILLING CODE 8010–01–M

STATE JUSTICE INSTITUTE

TIME AND DATE:

9:00 a.m. to 5:00 p.m., October 5, 1989
9:00 a.m. to 5:00 p.m., October 6, 1989

PLACE: Boston Park Plaza Hotel, 50 Park Plaza, Boston, Massachusetts.

STATUS: The meeting will be open to the public, except for personnel matters.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Public Forum (speakers to appear by invitation only); consideration of FY 1990.
Proposed Guideline; consideration of deferred and continuation applications.

Portions Closed to the Public

Discussion of internal personnel matters.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 120 South Fairfax Street, Alexandria, Virginia 22314, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 89–22153 Filed 9–15–89; 10:13 am]

BILLING CODE 6820–SC–M

Corrections

Federal Register
Vol. 54, No. 180
Tuesday, September 19, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50693; FRL-3623-4]

Issuance of Experimental Use Permits

Correction

In notice document 89-17916 beginning on page 31880 in the issue of Wednesday, August 2, 1989, make the following corrections:

1. On page 31880, in the third column, in the second complete paragraph, in the sixth line, "4dimethyl-3-" should read "4-dimethyl-3-".

2. On page 31881, in the first column, in the first complete paragraph, in the last line, "(703-557-2800))" should read "(703-557-1800))".

3. On the same page, in the same column, in the 2nd complete paragraph, in the 15th line, "permit" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-050-09-4212-11; IDI-26377]

Realty Action; Recreation and Public Purposes Act Classification; Idaho

Correction

In notice document 89-19957 beginning on page 35254 in the issue of Thursday, August 24, 1989, make the following correction:

On page 35254, in the third column, in Sec. 14, the second line should read "N2S2NW4SW4, SE4SW4NW4SW4,"

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-943-09-4212-13; U-58998]

Notice of Issuance of Land Exchange Conveyance Document; Utah

Correction

In notice document 89-20890 appearing on page 37028 in the issue of Wednesday, September 6, 1989, make the following correction:

In the 2nd column, the 11th line should read "Sec. 18, W½NE¼, S½NW¼, S½".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

National Park Service

Badlands National Park, South Dakota

Correction

In notice document 89-20692 beginning on page 36911 in the issue of Tuesday, September 5, 1989, make the following corrections:

1. On page 36911, in the third column, in the paragraph designated "1.", in the second line, "excluded" was misspelled.

2. On page 36912, in the 1st column, under "T. 4 S., R. 18 E., Sec. 2 N½NE¼NW¼.", in the 4th line, "sections" should read "Sections"; in the 18th line, "fo" should read "of".

3. On the same page, in the 2nd column, in the 24th line, after "is" insert "on"; and in the 46th line, "being" should read "beginning".

BILLING CODE 1505-01-D

Federal Register

Tuesday
September 19, 1989

Part II

Federal Housing Finance Board

12 CFR Parts 522, 592, 932 and 950
Election of Directors of the Federal Home Loan Banks and Financing Corporation Operations; Final Rules

FEDERAL HOUSING FINANCE BOARD

[No. FHFB 89-5]

12 CFR Parts 522 and 932

Election of Directors of the Federal Home Loan Banks

AGENCY: The Federal Housing Finance Board.

ACTION: Final rule; solicitation of comments.

SUMMARY: The Federal Housing Finance Board ("Board") is amending its procedures for the election and appointment of directors of the Federal home loan banks ("banks") in order to comply with the recently legislated provisions of the Financial Institutions Reform, Recovery and Enforcement Act (Pub. L. 101-73, 103 Stat. 183, August 9, 1989 ("FIRREA")). The Board is also soliciting comments on these regulations with a view toward future revisions which may be necessary.

DATES: This rule is effective September 15, 1989. Section 932.17 is effective September 15, 1989 and expires June 15, 1990. Comments must be received on or before November 15, 1989.

ADDRESSES: Please send comment letters to Patrick Berbakos, Federal Housing Finance Board Task Force, 1700 G Street NW., Washington, DC 20552. Comments will be available for inspection at the Federal Housing Finance Board, 1700 G Street NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: William Carey, (202) 906-6656, or Patrick Berbakos, (202) 906-6720, Federal Housing Finance Board Task Force, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

A. Statutory and Regulatory Background

Pursuant to the Federal Home Loan Bank Act ("Act"), 12 U.S.C. 1421 *et seq.*, the Board has broad statutory powers and obligations to establish and oversee the Federal Home Loan Bank System which is comprised of twelve banks. *See also* 12 U.S.C. 1423.

The election process for 1989 was delayed from June 15, 1989 until September 15, 1989 by a temporary regulation codified at 12 CFR 522.30 and adopted by the former Federal Home Loan Bank Board ("Bank Board") as an interim measure while enactment of FIRREA was pending. Now that FIRREA has clarified that the Board is the regulator of the Federal home loan banks, it is necessary for the Board to codify the 1989 temporary schedule for the election of directors and other regulations pertaining to the election of directors. As a related action, the superseded § 522.30 is removed. The Board also has proposed regulations for director eligibility requirements under consideration which the Board expects to promulgate shortly.

B. Procedure for Nomination and Election

No change was made in 12 CFR 932.8 and 932.9. A change was made in § 932.10 to clarify the use of the word "member". In § 932.11 a change was made to reflect current election procedures for members whose principal place of business is located in the Virgin Islands. No change was made to § 932.12 which requires the banks to annually report stock holdings. A change was made in § 932.13, on the procedures for designating and nominating elective directorships to note that putative nominees who represent institutions that fail to meet their applicable minimum regulatory capital requirements may not be nominated. A parallel change was made in § 932.14 on the election of directors to clarify that persons who represent institutions that fail to meet their applicable minimum regulatory capital requirements may not be declared elected by the Board. No change was made in § 932.15 prohibiting actions influencing votes for directorships. In § 932.16 a change was made to clarify the use of the word "State".

C. 1989 Temporary Schedule for Election of Directors

Section 932.17 sets the schedule for the nomination and election of directors in 1989 only. For purposes of the 1989 director election cycle, the dates in this section take precedence over the other sections in this group of regulations. The section repromulgates the election schedule in 12 CFR 522.30 promulgated by the bank Board, inserting the precise dates for the various steps in the nomination and election procedure, which, with the enactment of FIRREA, can now be made definite. Nominations for directorships will be open from September 15, 1989 until October 15, 1989. The Board will notify each eligible candidate of their nomination and provide them with a questionnaire by October 25, 1989. The nominee must complete the questionnaire and return it to the Board by November 9, 1989. Election ballots will be mailed to all members by November 24, 1989 and must be received at the Board by December 15, 1989. The Board will notify the directors elected by December 31, 1989. This temporary director election schedule will cease to be effective after June 14, 1990, by the regulation's own terms.

D. Administrative Procedures Act

Since this rule is a matter of internal organization, practice, and procedure of the Federal Home Loan Bank System, it is exempt from the public notice and comment requirements of the Administrative Procedure Act ("APA"), 5 U.S.C. 551 *et seq.* While the APA requires publication of a substantive regulation not less than thirty days before its effective date, this delayed effective date does not apply to procedural rules such as the instant ones which pertain to the internal organization and practice of the Federal Home Loan Bank System. 12 U.S.C. 553 (b), (d).

The Board finds that "good cause" exists in this case for suspension of the usual thirty day delayed effective date as the process for election of bank directors begins on or before September 15, 1989, when the Board notifies member institutions of their nominating rights. It is essential that these regulations be in place no later than September 15, 1989. Further, it is in the public's interest to provide prompt action on these matters, and the newly issued procedures to amend the nomination and election process do not result in any additional burdens to third parties outside the bank System. *Cf. Nance* v. *Environmental Protection Agency*, 645 F.2d 701, 709 (9th Cir. 1981), *cert. denied*, sub. nom., 454 U.S. 1081 (1981); *Texaco, Inc.* v. *FEA*, 531 F.2d 1071, 1082 (Em. App. 1976), *cert. denied*, 426 U.S. 941 (1976).

Although time does not permit public comment in advance of the effective date of this rule, the Board recognizes the value of public comment and has provided for a sixty day comment period from the projected date of publication of these regulations. Public comments will influence possible future revisions of these regulations.

E. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601-612) do not apply.

List of Subjects in 12 CFR Parts 522 and 932

Conflict of interests, Federal home loan banks.

Accordingly, the Federal Housing Finance Board hereby amends part 522, subchapter B, chapter V, title 12 and part 932, subchapter B, chapter IX, title

12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 932—ORGANIZATION OF THE BANKS

1. The authority citation for part 932 is revised to read as follows:

Authority: Sec. 5 B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); secs. 6–7, 47 Stat. 727, 730, as amended (12 U.S.C. 1426–1427); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402–403, 407, 48 Stat. 1256–1257, 1260, as amended (12 U.S.C. 1725–1726, 1730); sec. 207, 62 Stat. 692, as added by sec. 1a, 76 Stat. 1123, as amended (18 U.S.C. 207); sec. 602, 92 Stat. 2115, as amended (42 U.S.C. 8101 *et seq.*); Reorg. Plan No. 6 of 1961, reprinted in 12 U.S.C.A. 1437 App. (West Supp. 1986), sec. 7 of Federal Home Loan Bank Act as amended by sec. 707 of FIRREA (103 Stat. 417; 12 U.S.C. 1427).

2. Section 932.8 is republished to read as follows:

§ 932.8 General.

Directors shall be appointed and elected as prescribed in section 7 of the act.

3. Section 932.9 is republished to read as follows:

§ 932.9 Director representing Puerto Rico.

Under section 7(e) of the act, the Federal Home Loan bank of New York shall have an additional elective director to represent members in Puerto Rico.

4. Section 932.10 is revised to read as follows:

§ 932.10 Definition of member.

For purposes of this part, the word "member" means an institution which was a member of such bank at the end of the calendar year preceding the election.

5. Section 932.11 is revised to read as follows:

§ 932.11 Location of member.

(a) Under section 7(c) of the Act, a member shall be considered located in the State in which it has its principal place of business. If a member's principal place of business is not in a State, the Board will designate a State in which such member shall be considered located, and may in its discretion change such designation from time to time.

(b) Members whose principal place of business is located in the Virgin Islands shall be considered to be located in Puerto Rico for the purpose of this part.

6. Section 932.12 is republished to read as follows

§ 932.12 Report of stock investment.

Each bank shall, by April 15 of each year, report to the Board, on prescribed forms, the number of shares of bank stock each of its members was required to hold at the end of the preceding calendar year. Such number shall be conclusive for purposes of election of directors.

7. Section 932.13 is revised to read as follows:

§ 932.13 Designation and nomination of elective directorship.

(a) By June 15 of each year, the Board will:

(1) Notify each member of the number of elective directorships designated for the state in which the member is located; and

(2) Notify each member in each state for which an elective directorship is to be filled of its right to nominate an eligible person(s) therefore, and provide each such member the following:

(i) A list of members located in its state;

(ii) A current list of directors of the bank of which it is a member, containing the name of each director, the name and address of the member institution with which he is affiliated, and the expiration date of his term; and

(iii) The nominating certificate.

(b) Each member in each state entitled under these regulations to participate in the election of directors may by resolution of its governing body nominate or authorize one of its directors or officers to nominate a qualified person for each directorship to be filled in its state. The nominating certificate must be received in the Federal Housing Finance Board by July 15.

(c) A letter will be sent to each nominee by August 5 informing him of his nomination. However, a nominee shall be ineligible to seek election pursuant to section 932.14 of this part and shall not be sent such letter if:

(1) He is then serving as an elective director whose term does not expire until after the close of the calendar year during which the election is being held.

(2) He is holding an appointive directorship unless the Federal Housing Finance Board has received from him, before July 15, notice of his intention to be a candidate for a directorship; or

(3) His institution does not meet any applicable minimum regulatory capital requirements as set forth by a member institution's appropriate regulatory agency

With such letter will be sent a list of nominees and a questionnaire. The completed questionnaire must be received at the Federal Housing Finance Board by August 20 in order for the nominee to have his name placed on the election ballot. A nominee shall be eligible for election only if his name is so placed on the ballot.

(d) Notwithstanding other provisions of this section, if at any time when nominations are required, the members of a bank hold less than $1 million of the capital stock of the bank, the Board will, in accordance with section 7(h) of the Act, appoint a director(s) to fill the place(s) for which nominations are required.

(e) In any Federal home loan bank district that comprises five or more states, the Board may increase the elective directorships to a number not exceeding thirteen. The designations and nomination of all elective directorships shall be undertaken in the manner set forth in this section.

8. Section 932.14 is revised to read as follows:

§ 932.14 Election of directors

(a) By September 25, the Board will mail to each member in each state for which an elective directorship is to be filled a set of ballot materials in a form prescribed by the Board. The ballot will contain in alphabetical order the name of each candidate eligible to represent the members located in such state having complied with the provisions of § 932.13 of this part, the name and address of the member institution with which each candidate is affiliated, the candidate's title in the member institution, and the number of votes the member may cast, as determined under the provisions of paragraph (b) of this section.

(b) The number of votes each member may cast shall equal the number of shares of stock in the bank required by the Act to be held by such member at the end of the calendar year preceding the election, except that:

(1) A member that is the result of a merger or consolidation, occurring in the year of election, of two or more member institutions within the same state and Federal home loan bank district, may cast votes equal to the total number of shares of stock that the merged or consolidated institutions comprising it were required to hold as of the end of the calendar year preceding the election, and

(2) No member may cast votes in excess of the average number of such shares required by the Act to be held at the end of such calendar year by members in such state.

(c) Each member entitled to receive a ballot may, by resolution of its governing body, cast its votes or

authorize one of its directors or officers to cast its votes for each of as many candidates as there are directorships to be filled. The ballot materials shall be sent to the Federal Housing Finance Board and must be received by October 25. No ballot may be changed after it is delivered to the Federal Housing Finance Board, which will preserve all ballots until the end of the next calendar year. Election ballots will not be opened until after 5 p.m., e.s.t., October 25. Only ballots executed on forms supplied by the Board will be considered.

(d) By November 15 the Board will declare elected the candidate receiving the highest number of votes cast, and where two or more directorships are to be filled from the ballot, the Board will declare elected each candidate receiving the next succeeding highest number of votes until the number of candidates declared elected equals the number of directorships to be filled. If required by a tied vote, the Board will declare elected one of the candidates whose votes are tied. No candidate who represents a member institution that fails to meet any applicable minimum regulatory capital requirements as set forth by the member institution's appropriate regulatory agency shall be declared elected by the Board.

(e) The Board will record the results of the election in its minutes and notify the directors elected. The Board will furnish each member such results, including the name and address of the institution with which he is affiliated and his title therein, the number of votes he received, the number of members eligible to cast votes for the directorship(s), and the total eligible votes all such members were entitled to cast.

(f) In any date specified in §§ 932.12 through 932.14 of this part occurs on a Saturday, Sunday, or holiday, the next business day shall be included in the time allowed. No nominating certificate, questionnaire, or ballot shall be considered unless received in the Federal Housing Finance Board by the date specified.

9. Section 932.15 is republished to read as follows:

§ 932.15 Prohibition of actions influencing votes.

No officer, attorney, employee, or agent of the Board or a bank may individually or collectively take any action tending to influence votes for a directorship in a bank, and no person shall include in any letter, literature, or other paraphernalia, language or any presentation indicating, directly or indirectly, that the Board, or any officer, attorney, employee, or agent of the Board or a bank supports the candidacy of any person for an elective directorship. The Board, after hearing, may consider any such action grounds for dismissal from a directorship or may declare vacant the directorship involved, or both.

10. Section 932.16 is revised to read as follows:

§ 932.16 Definition of "State".

As used in §§ 932.11, 932.13, and 932.14, the word "State" means State, the District of Columbia, or Puerto Rico.

11. Section 932.17 is added to read as follows:

§ 932.17 1989 Temporary schedule for election of directors.

(a) This section shall apply to the special scheduling provisions for the election of directors of the banks during calendar year 1989. As described herein, this section shall operate in conjunction with §§ 932.13 through 932.14 of this part which generally govern the election of directors. However, the special provisions of this section shall govern the scheduling of elections for bank directorship positions for 1989 in the case of any conflict with the provisions of §§ 932.13 through 932.14 of this part.

(b) Not later than September 15, 1989, the Federal Housing Finance Board will take the actions specified in § 923.13(a) of this part.

(c) Not later than October 15, 1989, each member's nominating certificate must be received by the Board pursuant to the requirements of § 932.13(b) of this part.

(d) Not later than October 25, 1989, the Board will take the actions specified in § 932.13(c) of this part; except that no such letter referred to in § 932.13(c) of this part will be sent to any nominee holding an appointive directorship unless the Board has received from him, not later than October 15, 1989, notice of his intention to be a candidate for a directorship.

(e) Not later than November 9, 1989, the completed questionnaire referred to in § 932.13(c) of this part must be received by the Board.

(f) Not later than November 24, 1989, the Board will mail to each member in each state for which an elective directorship is to be filled a set of ballot materials in a form prescribed by the Board pursuant to the requirements of § 932.14(a) of this part.

(g) Not later than December 15, 1989, the ballot materials described in § 932.14(a) of this part shall be received by the Board pursuant to the requirements of § 932.14(c) of this part.

(h) Not later than December 31, 1989, the Board will declare the candidates elected as directors pursuant to the requirements of § 932.14(f) of this part.

(i) If any date specified in paragraphs (a) through (h) of this section occurs on a Saturday, Sunday, or holiday, the next business day shall be included in the time allowed pursuant to the requirements of § 932.14(f) of this part.

(j) Until further notice, the Board delegates the responsibility for administering this rule to the Federal Housing Finance Board Task Force. All materials due to the Board shall be sent to: Federal Housing Finance Board Task Force, 1700 G Street NW., Washington, DC 20552.

(k) This § 32.17 shall be effective from September 15, 1989 through June 14, 1990.

§ 932.17 [Removed]

12. Section 932.17 is removed effective June 15, 1990.

PART 522—ORGANIZATION OF THE BANKS

§ 522.30 [Removed]

13. Section 522.30 is removed.

By the Federal Housing Finance Board.

Dated: September 12, 1989.

Jack Kemp,

Acting Chairperson.

[FR Doc. 89-22098 Filed 9-18-89; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Parts 592 and 950

[No. FHFB 89-7]

Financing Corporation; Operations

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: On August 10, 1987, the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987 ("Recapitalization Act") was enacted into law. The Recapitalization Act authorized the former Federal Home Loan Bank Board ("FHLBB") to charter a corporation known as the Financing Corporation. The Financing Corporation has issued and will continue to issue debt securities ("Obligations") in the capital markets, and with the net proceeds thereof, it has purchased and will continue to purchase capital certificates. Such capital certificates (along with capital stock) were issued by the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation") prior to the enactment of the Financial Institutions Reform,

Recovery and Enforcement Act of 1989 ("FIRREA") on August 9, 1989. Subsequent to enactment of the FIRREA, only capital certificates will be issued by the FSLIC Resolution Fund. Pursuant to FIRREA the Financing Corporation is now under the authority of the newly established Federal Housing Finance Board ("Board") which oversees the twelve (12) Federal home loan banks ("banks").

The Board today is adopting regulations to clarify the manner in which the Financing Corporation will continue its operations and to clarify the manner in which it will exercise its assessment authority with respect to institutions insured by the Savings Association Insurance Fund ("SAIF"). At the time the Recapitalization Act was enacted, it was not anticipated that the provisions of the Act applicable to banks whose contributions to the Financing Corporation were in excess of the maximum amount limitation set forth in the statute would come into effect. Now, in light of the banks' required contributions to the Resolution Funding Corporation ("Funding Corporation") and the Financing Corporation, it is necessary to promulgate regulations implementing procedures for "deficient" and "remaining" banks, as such terms are defined in the regulations adopted today. The other regulations regarding the operations of the Financing Corporation merely codify, for the most part, FHLBB resolution numbers 87–933, 87–934 and 87–935, which granted to the management of a three person directorate ("the Directorate") of the Financing Corporation the authority to engage in certain operations.

EFFECTIVE DATE: These regulations are effective September 13, 1989.

FOR FURTHER INFORMATION CONTACT: K. Diane Boyle, Manager, Special Projects Division (202) 272–4978, Office of Finance, Federal Home Loan Bank System, 655 15th Street NW., Washington, DC 20005; James H. Gray, Jr., Esq., (202) 906–6161, Federal Housing Finance Board Task Force.

SUPPLEMENTARY INFORMATION:

A. General

The Recapitalization Act was enacted as Title III of the Competitive Equality in Banking Act of 1987, Public Law 100–86, 101 Stat. 552. Section 302 of the Recapitalization Act amended the Federal Home Loan Bank Act (the "Act"), 12 U.S.C. 1421 *et seq.*, by adding a new section 21 concerning the Financing Corporation.

The FIRREA, title V, further amends section 21 of the Act by placing the Financing Corporation under the authority of the Board and by amending the Financing Corporation's thrift industry assessment authority.

Pursuant to section 21 of the Act, the FHLBB chartered the Financing Corporation on August 28, 1987. The Financing Corporation was, and will continue to be, under the management of the Directorate. Section 21(b)(8) of the Act provides that: "[t]he Directorate shall be subject to such regulations, orders, and directions as the Board may prescribe." Additionally, section 21(c) of the Act provides that the exercise by the Financing Corporation of its statutory powers shall be subject to such regulations, orders, and directions as the Board may prescribe. Finally, section 21(j) of the Act authorizes the Board to "prescribe such regulations as may be necessary to carry out the provisions of (section 21) including regulations defining terms used in (section 21)."

The Financing Corporation is authorized by the Recapitalization Act, over time and in series, to issue Obligations having an aggregate outstanding principal amount not to exceed $10.825 billion at any one time. The Financing Corporation, to date, has issued a total of $7.5 billion in Obligations. The net proceeds from the issuance of these Obligations have been used to purchase nonvoting capital stock and nonredeemable capital certificates of the FSLIC. As a result of the FIRREA, the Financing Corporation will only purchase capital certificates of the FSLIC Resolution Fund. The banks have capitalized and will continue to capitalize the Financing Corporation through the purchase of nonvoting capital stock issued by the Financing Corporation. The Financing Corporation will use these funds to defease its outstanding Obligations.

B. Administrative Expenses

In addition to capitalizing the Financing Corporation, the banks shall pay the administrative expenses of the Financing Corporation. Each bank is required to pay an amount determined by multiplying the total administrative costs for each period by the percentage calculated by dividing—

(i) The cumulative amount such bank has paid (or should have paid) to the Financing Corporation pursuant to section 21(b)(7) of the Act; by

(ii) The aggregate of the cumulative amounts the Financing Corporation has required all banks to pay as of the date of the determination.

This determination will not take into account the fact that certain banks may have actually made the investments in the Financing Corporation contemplated by section 21(d)(6) of the Act on behalf of another bank whose investment would have been in excess of the limitation set forth in section 21(d)(3) of the Act.

Annually, the Directorate will seek Board approval for a budget which details the Financing Corporation's expenses for the coming year. The approved budget will allow the banks to provide for the anticipated administrative expenses included as part of the budget. The Financing Corporation will coordinate the collection of such administrative expenses from the banks on a periodic basis, but not less often than semi-annually.

C. Capital Assessments for the Financing Corporation

The Financing Corporation has issued Obligations totalling $7.5 billion of the $10.825 billion which the Recapitalization Act authorizes the Financing Corporation to have outstanding at any one time, and has caused the banks to purchase the necessary capital stock of the Financing Corporation to defease such Obligations. The regulations enacted today detail the manner in which the banks will continue to be assessed by the Financing Corporation through investment in its capital stock. The regulations provide that, without further action by the Board, the banks shall collectively purchase, when and as instructed by the Directorate, an amount of nonvoting capital stock of the Financing Corporation, which, when added to the amount of such stock previously purchased by the banks, shall not exceed, in the aggregate, the amount necessary to defease $10.825 billion of Obligations of the Financing Corporation.

The regulations promulgated today also codify the par value per share of Financing Corporation capital stock at $1.00 and provide that the shares are only transferable among the banks. In addition, the regulations clarify that any investment by the banks in the Financing Corporation, in any year, in excess of the three hundred million dollar ($300,000,000) aggregate annual limit on the banks' investments in the stock of the Financing Corporation and the Funding Corporation shall be credited as a payment already made by the banks in the following year, or years, as the case may be. Therefore, the Directorate shall coordinate with the Oversight Board, established pursuant to section 21A of the Act, or its designee the capital contribution demands of the

Financing Corporation and the Funding Corporation.

D. Establishment, Maintenance and Funding of Reserve Accounts

The amount of any bank's allocation of the funds to be provided to capitalize the Financing Corporation may exceed the maximum amount limitation applicable to such bank under section 21(d)(3) of the Act. In such instances, such bank will become a "deficient bank" and the "remaining banks" will be required to pay, in addition to the amount required under section 21(d)(5) of the Act, a prorated portion of the deficient bank's excess amount. A remaining bank's prorated portion of the excess amount will be included in the maximum amount limitation for that bank under section 21(d)(3) of the Act, so that a remaining bank will not also become a deficient bank.

The regulations promulgated today require that a deficient bank set aside in a reserve account, separate from the reserve accounts required for reimbursement of deficiencies in Funding Corporation contributions, on a quarterly basis, twenty percent (20%) of its net earnings, or the amount of the deficiency if such deficiency is less than twenty perent (20%) of net earnings. Notwithstanding the foregoing, the aggregate of the amounts set aside in the reserve account provided for herein, and the amounts set aside in the reserve accounts for deficiencies for Funding Corporation investments and interest payments, shall not be required to exceed twenty percent (20%) of a deficient bank's net earnings. With respect to deficiencies for Financing Corporation investments, a deficient bank may set aside more than twenty percent (20%) of its net earnings in its reserve account. Until such time as a deficient bank makes its required stock repurchases in the Financing Corporation, such deficient bank is prohibited from making dividend payments of no more than one-half of its net earnings.

A deficient bank shall continue to set funds aside in its reserve account each quarter until the deficiency has been repaid. Annually, the Directorate shall direct the disbursement of reserve account funds to the remaining banks for the sole purpose of purchasing from the remaining banks such capital stock of the Financing Corporation as was purchased on behalf of the deficient bank. The remaining banks shall be repaid in the order of their investments on behalf of a deficient bank.

E. Authorization of Establishment of Investment Policies and Procedures

The regulations authorize the Directorate to establish investment policies and procedures from time to time with respect to funds of the Financing Corporation which are not required to be transferred to the FSLIC Resolution Fund. Such policies and procedures are to be consistent with the provisions of section 21(g)(1) of the Act.

F. Book-Entry Procedure for Financing Corporation Obligations

The regulation pertaining to book-entry procedure for Financing Corporation Obligations is being removed from 12 CFR part 592, and is being republished in § 950.5.

G. Minority Participation in Public Offerings

The Recapitalization Act required the Directorate and the Chairman of the former FHLBB to take measures to provide an opportunity for minority entities to participate to a significant degree in any public offerings of the Financing Corporation. To fulfill this mandate, the Directorate, has from time to time, adopted procedures to ensure minority participation in such public offerings. The regulations promulgated today require the Directorate to continue to take such measures.

H. Industry Assessments

a. Assessment Authority

Holders of Financing Corporation Obligations are entitled to receive payment of interest on such Obligations on a semi-annual basis. In order to ensure that the Financing Corporation will continue to be able to satisfy its obligation to pay issuance costs, custodian fees, and interest to the holders of Financing Corporation Obligations, section 21(f) of the Act provides the Financing Corporation with an income stream. Such income stream is comprised of the amount of any remaining assessments from FSLIC insured institutions prior to the enactment of FIRREA and the amount of assessments against SAIF members. To the extent the amounts available from the two income sources identified above are insufficient to cover Financing Corporation interest payments, issuance costs and custodian fees, the liquidating dividends and payments made on claims of the FSLIC Resolution Fund may be used to make interest payments. These last amounts are only available if the funds are not required by the Funding Corporation Principal Fund.

Pursuant to its assessment authority under FIRREA, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation ("FDIC"), the Financing Corporation may assess each SAIF member, in the manner in which the FDIC makes assessments, up to the maximum amount which may be assessed against SAIF members under section 7 of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811, *et seq.*, ("FDIA".) The Financing Corporation has first priority to make these assessments over the other users of SAIF members' insurance assessments.

b. Transition Period

The FIRREA requires the FDIC to insure and assess savings associations previously insured by the FSLIC. Under prior regulations, each FSLIC insured institution paid an assessment of 1/12 of 1 percent of its deposit base and was billed for its assessment amount on the annual anniversary of the institution becoming FSLIC insured. FSLIC insured institutions were also subject to special annual assessments of up to 1/8 of 1 percent of their respective deposit bases, to be assessed at the FHLBB's discretion.

The FDIC assesses its insured institutions in a manner different from that of the FSLIC. Each FDIC insured institution is required to pay one-half of its annual assessment on January 31 and the other one-half on July 31. Additionally, FDIC insured institutions were not subject to special assessments, unlike FSLIC insured institutions.

As the new insurer of former FSLIC insured institutions, the FDIC must provide a mechanism to switch the billing cycles of FSLIC insured institutions from the "anniversary date" cycle to the semiannual cycle used by the FDIC. Also, institutions formerly insured by the FSLIC will no longer be subject to special assessments, but will be subject to one assessment rate which, during the transition period, is substantially a blend of the former regular and special assessment rates. The FDIC will coordinate the transition rules and assessments with the Financing Corporation and the Funding Corporation.

To accomplish the transition of SAIF members from the old to the new billing system, the FDIC has promulgated regulations set forth at 12 CFR part 327. Such regulations provide for the assessments to be made by the Financing Corporation during the transition period. As a procedural matter, the FDIC, the Funding Corporation and the Financing Corporation will coordinate the transition period assessments through a

joint collection agent using the direct debit system. The Federal Home Loan Bank of Des Moines (FHLBDM) has served as a joint collection agent of the Financing Corporation and the FSLIC since September 1987, and will continue in this capacity for the FDIC, the Financing Corporation and the Funding Corporation. The FHLBDM will collect from each SAIF member an assessment on behalf of the FDIC, the Financing Corporation and the Funding Corporation. This mechanism will ensure that the sum of the amounts billed does not exceed the statutory limitations.

c. Post-Transition Regulation

Prior to the conclusion of the transition period noted above, the FDIC will promulgate regulations implementing its authority to assess SAIF members on an on-going basis. Such regulations will take into account the assessment authority of the Financing Corporation set forth at section 21(f) of the Act. It is anticipated that the FHLBDM will continue to serve as the joint collection agent after the transition period.

d. Exit Fees

Pursuant to section 5(d)(2)(E) of the FDIA, the FDIC and the Secretary of the Treasury, prior to January 1, 1997, and thereafter the FDIC solely, are to determine the amount of the exit fee to be assessed in the case of a conversion transaction involving a SAIF member in which the resulting or acquiring institution is not a SAIF member. Such fee is to be deposited in the SAIF, or shall be paid to the Financing Corporation if the Secretary of the Treasury determines that the Financing Corporation has exhausted all other sources of funding for interest payments and orders that such fees be paid to the Financing Corporation. The regulations promulgated today establish the procedure for the Financing Corporation's request for exit fee funds as provided by FIRREA.

e. Non-Administrative Expenses

SAIF members are required to fund anticipated non-administrative expenses of the Financing Corporation. Such anticipated non-administrative expenses include issuance costs, custodian fees, and interest expenses for the outstanding Obligations of the Financing Corporation. Pursuant to the Financing Corporation's approved budget and pursuant to its determination as to the amount of interest expense, the Financing Corporation shall notify the FDIC of the percentage of the semiannual assessment of SAIF members required to meet such anticipated expenses. Thereafter, the Financing Corporation shall request such funds from the joint collection agent.

I. Reports to Board

The regulations promulgated today require the Financing Corporation to submit quarterly reports to the Board. The purpose of such reports is to allow the Board to monitor the affairs of the Financing Corporation in order to properly exercise its authority over the Financing Corporation.

J. Deletion of Bank Board Regulations

Part 592, subchapter H of title V in chapter 12 of the Code of Federal Regulations contains the current operating authority for the Financing Corporation. This regulation has remained in effect because of the FIRREA savings provision in section 401(h)(2). Now that the Board is repromulgating the Financing Corporation's procedures in 12 CFR part 950, it is no longer necessary to retain the Bank Board's regulations. Part 592 is deleted by the action taken today.

K. Administrative Procedure Act

The Board is adopting this regulation as a final rule effective September 13, 1989. The Board finds that, for its adoption of these rules, observance of the notice and comment procedures, prescribed by the Administrative Procedures Act, 5 U.S.C. 553 (1982) and 12 CFR 508.11 and 508.12 (1987), may be waived pursuant to 5 U.S.C. 553(b)(3)(B) and 5 U.S.C. 553(d)(3).

The Board for good cause finds that notice and comment procedures are impracticable, unnecessary, or contrary to the public interest with regard to its adoption of the Financing Corporation operation rules (12 CFR part 950). The reasons in support of this finding are as follows:

First, the Board is of the view that notice and comment procedures are unnecessary because the rules set forth in part 950, as amended today, generally only codify in the Board's regulations the statutory rules already applicable under the Recapitalization Act and FIRREA. Therefore, the new rules impose no new legal burden on insured institutions. Similarly, providing notice and comment procedures and a delayed effective date would be contrary to the public interest because the Board could not immediately discharge its statutory responsibilities.

Secondly, the Board believes that it is contrary to the public interest to have the adoption of the rules delayed in order to provide for such notice and comment procedures. The Board finds that it is in the public interest for the Financing Corporation to continue its operations and to have the banks' investments and investment limits clearly established. In connection with this finding, the Board notes that further funds raised by the Financing Corporation will be contributed to the capital of the FSLIC Resolution Fund. The Financing Corporation's contributions to the FSLIC Resolution Fund's capital will permit the maintenance of public confidence in the nation's depository institutions and will enable the FSLIC Resolution Fund to meet its obligations under FIRREA.

Finally, the Board finds that these regulations relate to agency management within the meaning of 5 U.S.C. 553 and are therefore exempt from the notice and comment provisions set forth therein.

L. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

List of Subjects in 12 CFR Parts 592 and 950

Federal home loan banks, Financing Corporation, Resolution Funding Corporation, Savings Associations, Securities.

Accordingly, the Board hereby amends title 12, chapters V and IX, Code of Federal Regulations as set forth below:

1. Part 950 is added to subchapter C to read as follows:

SUBCHAPTER C—FINANCING CORPORATION

Part 950—OPERATIONS

Sec.

Authority: 12 U.S.C. 1441(b)(8) (c) and (j); sec. 702, Pub. L. 101–73, 103 Stat. 413 (12 U.S.C. 1422a, 1422b).

§ 950.1 Definitions.

Act means the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 *et seq.*).

Administrative expenses includes but is not limited to, such expenses as postage and delivery; equipment and line charges; general professional fees, advertising, printing, and legal fees; and miscellaneous office supplies; but does not include any form of employee compensation, salaries, or benefits, custodian fees, or any interest on any obligation of the Financing Corporation.

Bank or banks means a Federal home loan bank or the Federal home loan banks.

Board means the Federal Housing Finance Board established pursuant to section 2A of the Act.

Custodian fees means any fees incurred by the Financing Corporation in connection with the transfer or maintenance of any security in the segregated account established pursuant to section 21(g)(2) of the Act and any other expense which is not an administrative expense or an issuance cost incurred by the Financing Corporation in connection with the establishment or maintenance of such account.

Deficient bank means a bank whose allocation under section 21(d)(5) of the Act exceeds the amount applicable to such bank under section 21(d)(3) of the Act.

Directorate means the three member board established pursuant to section 21(b) of the Act to manage the Financing Corporation.

Excess amount means the amount by which a bank's required contribution pursuant to section 21(d)(5) of the Act exceeds the maximum amount limitation applicable to such bank pursuant to section 21(d)(3) of the Act.

Exit fees means the amounts paid pursuant to sections 5(d)(2) (E) and (F) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811, *et seq.*, and regulations promulgated thereunder.

FDIC means the Federal Deposit Insurance Corporation established pursuant to section 1 of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811, *et seq.*

Financing Corporation means the Financing Corporation chartered pursuant to section 21(a) of the Act.

FSLIC Resolution Fund means the FSLIC Resolution Fund established pursuant to section 11A(a)(1) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811, *et seq.*

Funding Corporation means the Resolution Funding Corporation established pursuant to section 21B(b) of the Act.

Issuance costs means issuance fees and commissions incurred by the Financing Corporation in connection with the issuance or servicing of any obligations of the Financing Corporation. Such costs include, but are not limited to, legal costs, accounting costs, printing expenses and securities processing costs relating to the issuance of obligations by the Financing Corporation.

Net earnings means net earnings without reduction for any chargeoffs or expenses incurred by a bank in connection with the purchase of capital stock of the Financing Corporation or the purchase of stock of the Funding Corporation required by the Oversight Board under sections 21B (e) and (f) of the Act.

Non-administrative expenses means issuance costs, custodian fees, and interest on obligations.

Obligations means debentures, bonds, or similar obligations of the Financing Corporation issued pursuant to sections 21(c)(3) and (e) of the Act.

Office of Finance means the joint office of the Federal home loan banks as set forth in section 2B of the Act.

Remaining bank means a bank that is not allocated an amount under section 21(d)(5) of the Act that exceeds the maximum amount limitation applicable to such bank under section 21(d)(3) of the Act.

SAIF member means Savings Association Insurance Fund member as defined in section 21(k)(1) of the Act.

§ 950.2 General authority.

The Financing Corporation may exercise all authority granted it by the Act and by its charter and bylaws, whether or not implemented specifically by Board regulations, subject to the limitations and interpretations contained in this part and such orders and directions as the Board may prescribe.

§ 950.3 Authorization of establishment of investment policies and procedures.

The Directorate may establish investment policies and procedures from time to time with respect to funds of the Financing Corporation which are not required to be transferred to the FSLIC Resolution Fund. These investment policies and procedures shall be consistent with the provisions of section 21(g)(1) of the Act. The Directorate shall notify the Board promptly of any changes to the investment policies and procedures.

§ 950.4 Authority to issue obligations.

(a) The Board authorizes the Directorate, in its discretion and upon receipt of a written request for funds from the FSLIC Resolution Fund, to cause the Financing Corporation to issue obligations, in accordance with the provisions of section 21(e) of the Act. Such written request, in a form acceptable to the Directorate, shall specify the amount of funds needed and the date by which such funds are needed.

(b) The net proceeds of each obligation issued by the Financing Corporation shall be used to purchase capital certificates issued by the FSLIC Resolution Fund and pursuant to section 21(e)(2) of the Act.

§ 950.5 Book-entry procedure for Financing Corporation obligations.

(a) Any Federal Reserve Bank is hereby authorized to apply book-entry procedure to Financing Corporation obligations.

(b) The book-entry procedure for Financing Corporation obligations shall be governed by the book-entry procedure established for Federal home loan bank securities, codified at part 912 of this chapter, and wherever the term "Federal home loan bank security(ies)" shall appear in said part, the term shall also be construed to mean the "Financing Corporation obligation(s)," if appropriate, to accomplish the purposes of this section.

§ 950.6 Minority participation in public offerings.

The Directorate shall take measures to provide minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsel throughout the United States with an opportunity to participate to a significant degree in any public offerings of the Financing Corporation.

§ 950.7 Bank employees.

The Board authorizes the officers, employees, or agents of the banks or the Office of Finance to act for and on behalf of the Financing Corporation in such manner as may be necessary to carry out the functions of the Financing Corporation.

§ 950.8 Budget and expenses.

(a) The Financing Corporation shall annually submit to the Directorate by November 15, a budget of its proposed expenditures, including administrative and non-administrative expenses, for the following year.

(b) By December 1 of each year the Directorate shall submit an approved budget to the Board for final approval.

(c) After such budget has been approved by the Board, the Financing Corporation shall transmit a copy of the budget to each bank president.

(d) In the event that, during any year, the Financing Corporation projects or anticipates incurring expenses, other than interest expenses, which exceed its approved budget, then an amended budget shall be submitted for approval in the same manner as the original budget.

§ 950.9 Administrative expenses.

(a) All administrative expenses, as defined in section 21(b)(7)(C) of the Act and § 950.1(b) of this part, of the Financing Corporation shall be paid by the banks.

(b) The amount each bank shall pay shall be determined in the manner provided in section 21(b)(7)(B) of the Act.

(c) On a periodic basis, but not less often than semi-annually, the Financing Corporation shall bill each bank in advance for its proper share, as determined in accordance with section 21 of the Act, of the Financing Corporation's budgeted administrative expenses, as approved by the Board pursuant to § 950.8 of this part, for that period.

(d) The aggregate amount of administrative expenses for which the banks may be billed for any period, under a budget approved pursuant to § 950.8 of this part, shall be adjusted upward or downward as necessary to reflect any differences between the aggregate expenses projected in the budget and those actually incurred in prior periods during the calendar year or to reflect any changes in the estimate of aggregate expenses expected to be incurred in the coming period; however, in no event shall the aggregate of all bills issued to the banks for the budget calendar year exceed the budget approved pursuant to § 950.8 of this part.

§ 950.10 Capital assessments of Federal loan banks.

(a) *General.* The Board authorizes the Directorate, in its discretion, to require each bank to invest in nonvoting capital stock of the Financing Corporation in such amounts and at such times so that the Financing Corporation may defease its outstanding obligations pursuant to section 21(e) of the Act.

(b) *Investments by Federal home loan banks in Financing Corporation stock.* The banks shall collectively purchase, when and as instructed by the Directorate, an amount of shares of the nonvoting capital stock of the Financing Corporation, not to exceed, in the aggregate, the amount necessary to provide funds to defease $10.825 billion of obligations of the Financing Corporation. The shares issued by the Financing Corporation, which the banks are instructed to purchase, may be in one or more issues and shall be issued and sold at a purchase price of $1.00 per share. Such stock shall be subject to such terms and conditions as are prescribed in the Charter and Bylaws of the Financing Corporation as the same may be amended from time to time. The amount of stock which each bank shall be required to purchase within each issue shall be:

(1) As to the amount of Financing Corporation stock purchased pursuant to section 21(d) of the Act and Funding Corporation assessments made pursuant to section 21B(e)(3) of the Act, up to the initial one billion dollars ($1,000,000,000), in the aggregate, in accordance with the ratios prescribed in section 21(d)(4) of the Act.

(2) As to the amount of Financing Corporation stock purchased pursuant to section 21(d) of the Act, and Funding Corporation assessments made pursuant to section 21B(e)(4), of the Act, in excess of one billion dollars ($1,000,000,000), in the aggregate, in accordance with the ratios prescribed under section 21(d)(5) of the Act.

(c) *Maximum amount limitations.* (1) If the amount any bank is required to invest in capital stock of the Financing Corporation exceeds its maximum investment amount limitation, as determined pursuant to section 21(d)(3) of the Act, the Directorate shall require each remaining bank to invest in such additional capital stock of the Financing Corporation as provided for in section 21(d)(6) of the Act.

(2) The amount of Funding Corporation stock required to be purchased by the banks pursuant to sections 21B(e)(3) (A) and (B) of the Act shall be reduced by the amount of Financing Corporation capital stock that the banks are required to purchase pursuant to section 21 of the Act. If the amount of Financing Corporation stock that the banks are required to purchase exceeds the annual three hundred million dollar ($300,000,000) limitation on purchases of Funding Corporation stock prescribed by section 21B(e)(3)(C) of the Act, then the amount of Financing Corporation capital stock purchased in excess of such limitation shall be credited in the following year or years, as the case may be, as an amount already paid by the banks under section 21B(e)(3)(B)(ii) of the Act.

(d) *Par value and transferability of shares.* The shares shall have a par value of $1.00 per share and are freely transferable between the banks.

§ 950.11 Establishment, maintenance and funding of reserve account.

(a) Upon becoming a deficient bank, a bank shall, on a quarterly basis and prior to the payment of dividends, set aside in a reserve account, separate from the reserve accounts established pursuant to sections 21(B) (e) and (f) of the Act, twenty percent (20%) of its net earnings, or the amount of the deficiency if such deficiency is less than twenty percent (20%) of net earnings. However, a deficient bank may set aside more than twenty percent (20%) of its net earnings in such reserve account. Notwithstanding the foregoing, the amount set aside in the reserve account pursuant to this subsection and sections 21B (e) and (f) of the Act, in the aggregate, is not required to exceed twenty percent (20%) of a deficient bank's net earnings.

(b) The amount in the reserve account shall be available for the sole purpose of purchasing such capital stock from the remaining banks as was purchased on behalf of a deficient bank.

(c) Until a deficient bank has repurchased from the remaining banks all of the Financing Corporation capital stock purchased on its behalf by the remaining banks, such deficient bank's dividend payment shall not exceed an amount equal to one-half of its annual net earnings.

(d) Annually, not later than each January 31, the amounts set aside in a deficient bank's reserve account shall be remitted to the remaining banks in the amounts determined by the Directorate pursuant to section 21(d)(6)(C) of the Act. The remaining banks shall be repaid in the order of the investments made on behalf of the deficient bank.

(e) A remaining bank shall transfer the necessary shares of Financing Corporation stock to a deficient bank upon receipt of funds for repayment of excess amounts.

§ 950.12 Non-administrative expenses.

(a) The Financing Corporation shall, as part of the budget approved pursuant to § 950.8 of this part, include projections for anticipated issuance costs and custodian fees. Further, at least semiannually, the Financing Corporation shall determine anticipated interest expenses on its obligations.

(b) The Financing Corporation shall obtain funds for anticipated non-administrative expenses from the following sources and in the following order:

(1) With the approval of the board of directors of the FDIC, the Financing Corporation may levy upon each SAIF member and collect an assessment in accordance with section 21(f)(2) of the Act and 950.13 of this part; and

(2) To the extent the estimated amounts set forth in paragraph (b)(1) are insufficient to cover the anticipated non-administrative expenses of the Financing Corporation, the Directorate shall request, in writing, that the FDIC transfer the liquidating dividends of the FSLIC Resolution Fund and payments made on claims of the FSLIC Resolution Fund, if any, to the Financing Corporation. Such written request shall specify the estimated amount of funds needed by the Financing Corporation.

(c) To the extent the estimated amounts available under paragraph (b) of this section are insufficient to cover the anticipated interest payments, the Directorate shall request, in writing, that the Secretary of the Department of Treasury order that exit fees be transferred to the Financing Corporation. The request of the Directorate shall set forth the estimated amount of exit fee funds needed by the Financing Corporation.

§ 950.13 Assessments on SAIF members.

(a) Each bank shall allow any SAIF member whose principal place of business is in its district to establish and maintain at least one demand deposit account for the purpose of facilitating the Financing Corporation's assessments pursuant to section 21(f)(2) of the Act and § 950.12(b)(1) of this part.

(b) The Financing Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, is authorized to collect the assessments on SAIF members, pursuant to section 21(f)(2) of the Act and as provided in paragraph (a) of this section, through a joint collection agent.

(c) The Financing Corporation, based upon the anticipated non-administrative expenses shall determine the percentage of assessments on SAIF members needed, if any, to pay such expenses.

(d) Based upon the determination made under paragraph (c) of this section, the Financing Corporation shall notify the FDIC, the Funding Corporation, and the joint collection agent of the percentage of assessments it needs.

§ 950.14 Reports to Board.

Within ten business days of the close of each calendar quarter commencing with the quarter ending September 30, 1989, the Financing Corporation shall submit to the Board a report for the previous calendar quarter stating:

(a) The number of shares of the Financing Corporation which the banks were required to purchase and the dates of the purchases;

(b) The types and amounts of securities purchased pursuant to section 21(g)(1) of the Act;

(c) The amount of any obligations, as defined in § 950.1 of this part, issued during the quarter pursuant to section 21(e) of the Act and the basic terms and conditions of such obligations; the amount of any obligations proposed to be issued during the current quarter and any anticipated significant differences in the basic terms and conditions of those obligations from previously issued obligations; and the aggregate amount of obligations issued as of the end of the last quarter and the maximum amount of obligations which the Financing Corporation was permitted to issue as of that date pursuant to section 21(e)(1) of the Act;

(d) The amount of capital certificates purchased during the last quarter and the aggregate of all previous quarters and the percentage of all proceeds from obligations which the Financing Corporation had invested in the FSLIC Resolution Fund as of the end of the last quarter;

(e) Whether any changes have been made to the bylaws of the Financing Corporation, and, if so, the nature of such changes;

(f) A description of any significant utilization of the facilities and/or officers or employees of the banks or the Office of Finance on special projects;

(g) The aggregate amount of administrative expenses assessed against the banks and the aggregate amount of non-administrative expenses assessed against the SAIF members under the budget in place at the end of the last quarter;

(h) An assessment of the effectiveness of the program established by the Financing Corporation to encourage minority participation in its public offerings;

(i) Any significant changes in the Financing Corporation's investment policies or any other developments that the Directorate deems significant which occurred during the last quarter or are expected to occur during the current quarter; and

(j) Such other information as the Board may require.

§ 950.15 Review of books and records.

An office designated by the Board shall review the books and records of the Financing Corporation pertaining to the banks' assessment for the Financing Corporation at least annually to determine whether the Financing Corporation is performing its functions in accordance with the provisions of section 21 of the Act and this part 950.

PART 592—[REMOVED]

2. Part 592 is removed from 12 CFR chapter V.

Dated: September 13, 1989.

Jack Kemp,

Acting Chairperson.

[FR Doc. 89-22099 Filed 9-18-89; 8:45 am]

BILLING CODE 6720-01-M

Federal Register

Tuesday
September 19, 1989

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 878 and 880

General and Plastic Surgery Devices; Classification of 11 Devices; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR PARTS 878 AND 880

[Docket No. 78N-2646]

General and Plastic Surgery Devices; Classifications of 11 Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to classify 11 preamendments devices now in commercial distribution. These actions are being taken under the Medical Device Admendments of 1976.

DATES: Comments by November 20, 1989. FDA proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kenneth A Palmer, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1090.

SUPPLEMENTARY INFORMATION:

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A. Background

The Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295) to the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*) establish a system for regulation of medical devices intended for human use. One provision of the amendments, section 513 of the act (21 U.S.C. 360c), establishes three categories (classes) of devices depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness: class I (general controls); class II (performance standards); and class III (premarket approval).

Preamendment devices are not classified under section 513 of the act until after FDA has (1) received a recommendation from a device panel (an FDA advisory committee) (21 CFR part 14); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final rule classifying the device. These steps must precede the classification of any device that was in commercial distribution before May 28, 1976 (the date of enactment of the amendments) and that was not previously regarded by FDA as a new drug under section 505 of the act (21 U.S.C. 355). A device that is first offered for commercial distribution after May 28, 1976, and that is substantially equivalent to a device classified under this scheme, is placed in the same class as the device to which it is substantially equivalent.

Following the procedures outlined above, in the Federal Register of January 19, 1982 (47 FR 2810), FDA published a proposed rule classifying 54 preamendments general and plastic surgery devices. In the Federal Register of June 24, 1988 (53 FR 23856), FDA published a final rule based on the proposal of January 19, 1982.

While preparing the final rule classifying general and plastic surgery devices, FDA found that the device names, identifications, and classifications of three wound dressing devices identified in the proposed rule needed clarification and that reproposals are necessary for the devices. Therefore, FDA did not classify the three devices in the final rule of June 24, 1988.

Further, FDA is proposing to clarify the classifications of four general hospital and personal use devices presently codified at 21 CFR Part 880 and recodify them as eight classifications with general and plastic surgery devices.

Accordingly, the agency is now publishing this proposed classification rule to supplement its earlier proposal classifying three general and plastic surgery devices and to recodify and clarify eight wound dressing devices presently classified with general hospital and personal use devices.

B. Reproposed Classifications

FDA is reproposing classifications of three general and plastic surgery wound dressing devices, as noted above. The table below juxtaposes the reproposed (new) section numbers and device names with the section numbers and device names originally proposed on January 19, 1982. FDA is reproposing to classify the porcine burn dressing intended for short-term use into class I and, for long-term use, into class III as an interactive wound and burn dressing.

Reproposed section No.	Reproposed device name and class	Former proposed section No.	Former proposed device name and proposed class	Docket No.
878.4014	Nonabsorbable gauze surgical sponge for external use—class I.	878.4060	Nonabsorbable gauze surgical sponge, and wound dressing for external use—class I.	78N-2666
878.4018	Hydrophilic wound and burn dressing—class I	878.4120	Hydrophilic beads for wound exudate absorption—class I.	78N-2669
878.4024	Interactive wound and burn dressing—class III	878.4140	Porcine burn dressing for long-term use—class I	78N-2670
878.4026	Porcine burn dressing—class I	878.4140	Porcine burn dressing for short-term use—class I	78N-2670

C. Proposed Clarifications and Recodifications of Already Classified Devices

In a final rule published in the Federal Register of October 21, 1980 (45 FR 69682), FDA classified in 21 CFR part 880 certain general hospital and personal use devices in commercial distribution following the procedures outlined earlier in this preamble. Since publication of that final rule, the agency has determined that the names and identifications of four current general hospital and personal use devices are unclear or inaccurate. Further, these devices have been placed under the wrong part of the regulations in that most wound or burn dressing devices are included with general and plastic surgery devices (21 CFR part 878).

Accordingly, FDA has determined to propose that the four general hospital and personal use devices identified below be recodified in the Code of

Federal Regulations with general and plastic surgery devices. FDA is proposing that one of these already classified devices (§ 880.5240 *Medical adhesive tape and adhesive bandage*) be divided into four generic types of devices. Further, FDA is proposing that another of these already classified devices (§ 880.5090 *Liquid bandage*) be divided into two generic types of devices. The table below juxtaposes the eight new proposed section numbers and device names that are based on these four already classified devices. FDA is proposing that all eight proposed devices remain in class I as they are presently classified.

Because of these proposed changes, FDA is proposing to remove from 21 CFR part 880 the following sections: §§ 880.5090, 880.5180, 880.5210, and 880.5240.

New proposed section No.	New proposed classification name	Current section No.	Current device classification name
878.4006	Intravascular catheter securement device	880.5210	Intravascular catheter securement device.
878.4008	Medical adhesive tape	880.5240	Medical adhesive tape and adhesive bandage.
878.4010	Medical adhesive bandage	880.5240	Medical adhesive tape and adhesive bandage.
878.4012	Adhesive wound closure	880.5240	Medical adhesive tape and adhesive bandage.
878.4020	Occlusive wound and burn dressing	880.5240	Medical adhesive tape and adhesive bandage.
878.4016	Burn sheet	880.5180	Burn sheet.
878.4018	Hydrophilic wound and burn dressing	880.5090	Liquid bandage.
878.4022	Hydrogel wound and burn dressing	880.5090	Liquid bandage.

D. General and Plastic Surgery Devices Proposed Classifications

Parts B and C, supra, show that 11 general and plastic surgery devices are proposed for classification, including alteration of names, identifications, and classification of certain of the devices. The agency's present proposal to classify these devices, follows: 10 devices into class I and 1 device into class III.

E. Description of Panel Recommendation Process

The Panel recommendation concerning a general and plastic surgery device includes the information described below.

1. *Identification.* Both the Panel recommendation and the proposed FDA classification include a brief narrative identification of the device. The identification statement is necessarily broad because it applies to a category or type of device rather than to a specific device. As explained in 21 CFR 878.1 (53 FR 23856), any manufacturer of a newly offered device who files a premarket notification submission under section 510(k) of the act and 21 CFR part 807 of the regulations cannot show merely that the device is accurately described by the section title and identification provisions of a classification regulation. Although a new device may be described accurately by the title and identification in a classification regulation, it is nevertheless in class III under section 513(f) of the act if it is not substantially equivalent to a preamendments device (or to a postamendments device that has already been reclassified from class III into class I or class II). It is not practical for FDA to publish an identification of each type of device that is so detailed as to anticipate every product feature that may be relevant in determining whether a new device is substantially equivalent to previous devices classified by the regulation. The agency believes that this problem was recognized in, and addressed by, the premarket notification procedures in section 510(k) of the act. Accordingly, any manufacturer who submits a premarket notification submission should state why the manufacturer believes that the device is substantially equivalent to other devices in commercial distribution, as required by 21 CFR 807.87, and whether the device is described in a classification regulation.

Some products have both medical and nonmedical uses. FDA will regulate a multipurpose product as a medical device if it is intended for a medical purpose, i.e., for "use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease," or "to affect the structure or any function of the body" (section 201(h) of the act (21 U.S.C. 321(h))) FDA will determine the intended use of a product based upon the expressions of the person legally responsible for its labeling and by the circumstances surrounding its distribution. The most important factors the agency will consider in determining the intended use of a particular product are the labeling, advertising, and other representations accompanying the product. Products that have medical uses only are clearly intended for medical purposes and, therefore, will be regulated as medical devices whether or not medical claims are made for them.

2. *Recommended classification.* Each Panel's recommendation describes whether the device is recommended for classification into class I, class II, or class III.

For each device recommended for classification into class I, the Panel considered whether the device should be exempt from any requirements under certain sections of the act: section 510 (21 U.S.C. 360, registration), section 519 (21 U.S.C. 360i, records and reports), and section 520(f) (21 U.S.C. 360j(f), current good manufacturing practices (CGMP) requirements). The agency's policy on these exemption recommendations is discussed below in the section of this proposal concerning "F. Exemptions for Class I Devices."

Each Panel recommendation that a device be classified into class III includes the Panel's recommended priority ("high," "medium," or "low") for application of premarket approval requirements to that device.

3. *Summary of reasons for recommendation.* The summary of reasons for the Panel's recommendation explains why the Panel believes that a particular device meets the statutory criteria for classification into class I, II, or III. FDA is adopting the Panel's summary of reasons as the agency's statement of the reasons for issuing the regulation, as required by section 517(f) of the act (21 U.S.C. 360g(f)). Under the heading "H. Panel Recommendations and FDA's Proposed Classifications," the summary of the Panel's reasons for a recommendation identifies any device that is an implant or a life-supporting or life-sustaining device.

4. *Summary of data on which the recommendation is based.* The Panel based its recommendations on Panel members' personal knowledge of product data and clinical experience with the devices under review. The Panel particularly relied upon clinical experience and judgment when considering a simple device that had been used extensively and was accepted

widely before the amendments were enacted. The legislative history of the amendments makes clear that the term "data" has special meaning in section 513(c)(2)(A) of the act, which requires that a Panel recommendation summarize the data upon which a recommendation is based. As used in that section, "data" refers not only to the results of scientific experiments, but also to less formal evidence, other scientific information, or judgments of experts (House Committee on Interstate and Foreign Commerce, Medical Device Amendments of 1976, H. Rept. 94–853, 94th Cong., 2d Sess. 40 (1976)). The agency has determined that clinical experience and judgment provide information legitimately used by Panels and the agency to classify devices.

The agency is adopting as its statement of the basis for issuing the regulation under section 517(f) of the act the Panel's summary of the data on which a recommendation to classify a device is based.

5. *Risks to health.* In identifying the risks to health presented by general and plastic surgery devices, the Panel recognized that few devices are completely free of risk. The Panel listed the risks it considered most significant, especially those that are unique to an individual device. All surgical devices that come into direct or indirect contact with tissue have the potential of causing infection and foreign body reactions due to contamination of wounds. All surgical devices that come into direct contact with the blood have the potential of causing embolisms, hemolysis, obstruction, or occlusion of a blood vessel by an air bubble (gas embolism), detached blood clot (thromboembolism), or other foreign body (particulate) embolism. In some cases, FDA has identified risks to health presented by a device in addition to those listed by the Panel. These additional risks are set out in the preamble under the heading "H. Panel Recommendations and FDA's Proposed Classifications."

Because the classification recommendation and the FDA regulation may not identify all risks to health presented by a general and plastic surgery device, future regulations that establish an effective date of the requirement for premarket approval for a device classified into class III may identify additional risks to health not known to the agency. Each section for a general and plastic surgery device under the heading "H. Panel Recommendations and FDA's Proposed Classifications" states whether FDA agrees with the Panel's recommendation and describes the agency's proposed classification of the device.

FDA cautions that the final classification of a device may differ from the proposal. Factors that may cause such a change include comments, the agency's reconsideration of existing data and information, and the agency's consideration of new data and information.

For a device that the Panel recommends classification into class III, section 513(c)(2)(A) of the act requires that the Panel recommendation include, to the extent practicable, a recommendation for the assignment of a priority for application to the device of premarket approval requirements. In developing its advice concerning priorities ("high," "medium," or "low") of devices recommended for classification into class III, the Panel compared the device with other general and plastic surgery devices, based on information available to the Panel members concerning the relative importance of use of the device and the device's relative risks. The Panel recommended assignment of a "high priority" only to those class III devices that the Panel believed should receive the agency's immediate attention. In this proposed rule, the Panel recommended that the interactive wound and burn dressing (including the porcine burn dressing intended for long-term use) be assigned a high priority for premarket approval. The agency intends to proceed as quickly as resources permit to require premarket approval of the devices classified into class III.

F. Exemptions for Class I Devices

Section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c) provides that FDA may exempt a device recommended for classification into class I from a requirement under the following sections of the act: section 510 (21 U.S.C. 360), registration; section 519 (21 U.S.C. 360i), records and reports; and section 520(f) (21 U.S.C. 360j(f)), CGMP.

Under section 510 of the act, a person "engaged in the manufacture, preparation, propagation, compounding, or processing of * * * a device or devices" must register with FDA (section 510 (b) through (i)), file a list of devices (section 510(j)), and notify FDA at least 90 days before beginning commercial distribution of a device (section 510(k)) (see 21 CFR Part 807). Section 513(d)(2)(A) of the act provides the agency authority to exempt a device from sections 510, 519, and 520(f) of the act. Section 510(g)(4) provides authority to the agency to exempt certain persons from, among other things, registration and listing (see also 21 CFR 807.65).

FDA has developed criteria for its use in determining whether a class I device should be exempt from the premarket notification procedures. Based on these criteria, FDA has exempted certain class I ear, nose, and throat devices from the premarket notification procedures (see the Federal Register of August 25, 1987; 52 FR 32110). Based on an evaluation of the proposed class I devices in this proposed rule and applying the criteria described above, the agency is proposing to exempt manufacturers of six class I general and plastic surgery wound dressing devices from section 510(k) of the act and Subpart E of Part 807 of the regulations, which implements that section. The agency believes that the semiannual updating of device listing under section 510(j)(2) of the act will provide FDA with adequate notice of new products on the market, and an opportunity to determine whether such products are within these generic types of exempted devices.

Section 519 of the act authorizes FDA to issue regulations requiring device manufacturers, importers, and distributors to establish and maintain such records, make such reports, and provide such information as the agency may reasonably require to assure that devices are not adulterated or misbranded and to otherwise assure their safety and effectiveness. The most extensive of section 519 requirements are found in the CGMP regulations under 21 CFR Part 820 published in the Federal Register of July 21, 1978 (43 FR 31508).

Exemptions from CGMP requirements are available for class I devices pursuant to section 513(d)(2)(A) of the act.

The Panel recommended that the devices subject to this proposed rule comply with all of the requirements of the CGMP regulations. FDA agrees with this recommendation. FDA has determined that no device that is labeled or otherwise represented as sterile will be exempted from the device CGMP regulations. Accordingly, FDA is proposing that no exemptions from the CGMP regulations be granted to manufacturers of the devices subject to this regulation.

G. List of General and Plastic Surgery Devices

The following is a list of the general and plastic surgery devices that FDA is proposing to classify, the section and the Subpart of part 878 in Title 21 of the Code of Federal Regulations under

which the regulation classifying the device will be codified, the docket number, if any, of the former proposed classification regulation for each specific device, and the proposed classification of each device.

SUBPART E—SURGICAL DEVICES

Section No.	Device	Docket No.	Classification
878.4006	Intravascular catheter securement device		I
878.4008	Medical adhesive tape		I
878.4010	Medical adhesive bandage		I
878.4012	Adhesive wound closure		I
878.4014	Nonabsorbable gauze surgical sponge for external use	78N-2666	I
878.4016	Burn sheet		I
878.4018	Hydrophilic wound and burn dressing	78N-2669	I
878.4020	Occlusive wound and burn dressing		I
878.4022	Hydrogel wound and burn dressing		I
878.4024	Interactive wound and burn dressing	78N-2670	III
878.4026	Porcine burn dressing	78N-2670	I

H. Panel Recommendations and FDA's Proposed Classifications

Section 878.4006 Intravascular catheter securement device. The Panel made the following recommendations regarding classification of the intravascular catheter securement device:

1. *Identification.* An intravascular catheter securement device is a nonabsorbable device intended to be sterilized before use that consists of a piece of fabric or polymeric material with adhesive backing. It is intended to be applied over a needle or catheter that has been inserted through a patient's skin to keep the hub of the needle or the catheter flat against and securely fastened to the skin.

2. *Recommended classification.* Class I. The Panel recommends that this device be exempt from the premarket notification procedures under section 510(k) of the act.

3. *Summary of reasons for recommendation.* The Panel recommends that the intravascular catheter securement device be classified into class I because the Panel believes that the device has a history of safe and effective use. The Panel believes that the materials used in the device are generally acceptable and need be subject to general controls only. The Panel recommends that the device be exempted from premarket notification because no useful purpose would be advanced by keeping the requirement in place.

4. *Summary of data on which the recommendation is based.* The Panel based this recommendation on the Panel members' knowledge of product data and clinical experience with the device.

5. *Risks to health.* Infection: If the device is improperly applied, a patient may develop an infection.

FDA agrees with the Panel's recommendation and is proposing that the intravascular catheter securement device be classified into class I. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. FDA also agrees with the Panel recommendation regarding exemptions from premarket notification for the device. Therefore, FDA is proposing that manufacturers of the device be exempt from the premarket notification procedures under section 510(k) of the act and subpart E of 21 CFR part 807.

Section 878.4008 Medical adhesive tape. The Panel made the following recommendations regarding classification of medical adhesive tape:

1. *Identification.* Medical adhesive tape is a nonabsorbable device that consists of a strip of fabric or polymeric material with adhesive backing intended for medical purposes, such as to be applied to a patient's skin to secure a primary wound or burn dressing over a wound.

2. *Recommended classification.* Class I. The Panel recommends that this device be exempt from the premarket notification procedures under section 510(k) of the act.'

3. *Summary of reasons for recommendation.* The Panel recommends that the medical adhesive tape be classified into class I because the Panel believes that the device has a history of safe and effective use. The Panel believes that the materials used in the device are generally acceptable and need be subject to general controls only. The Panel recommends that the device be exempted from premarket notification because no useful purpose would be advanced by keeping the requirement in place.

4. *Summary of data on which the recommendation is based.* The Panel based this recommendation on the Panel members' knowledge of product data and clinical experience with the device.

5. *Risks to health.* Allergenic or hypersensitive reaction: If certain patients are sensitive to adhesive tape, a reaction may occur.

FDA agrees with the Panel's recommendation and is proposing that the medical adhesive tape be classified into class I. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. FDA also agrees with the Panel recommendation regarding exemption from premarket notification for the device. Therefore, FDA is proposing that manufacturers of the device be exempt from the premarket notification procedures under section 510(k) of the act and Subpart E of 21 CFR part 807.

Section 878.4010 Medical adhesive bandage. The Panel made the following recommendations regarding classification of the medical adhesive bandage:

1. *Identification.* A medical adhesive bandage is a device intended to be sterilized before use that consists of a strip of fabric or polymeric material with adhesive backing with an attached nonabsorbable wound dressing pad that does not contain an antiseptic or drug. The size of the device shall not exceed 4 inches by 1 and ⅛ inches (10 by 2.8 centimeters). The device is intended to serve as a dressing to cover a minor or superficial skin wound.

2. *Recommended classification.* Class I. The Panel recommends that this device be exempt from the premarket notification procedures under section 510(k) of the act.

3. *Summary of reasons for recommendation.* The Panel recommends that the medical adhesive bandage be classified into class I because the Panel believes that the device has a history of safe and

effective use. The Panel believes that the materials used in the device are generally acceptable and need be subject to general controls only. The Panel recommends that the device be exempted from premarket notification because no useful purpose would be advanced by keeping the requirement in place.

4. *Summary of data on which the recommendation is based.* The Panel based this recommendation on the Panel members' knowledge of product data and clinical experience with the device.

5. *Risks to health.* None identified by the Panel.

FDA agrees with the Panel's recommendation and is proposing that the medical adhesive bandage be classified into class I. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. FDA also agrees with the Panel recommendation regarding exemption from premarket notification for the device. Therefore, FDA is proposing that manufacturers of the device be exempt from the premarket notification procedures under section 510(k) of the act and Subpart E of 21 CFR part 807.

Section 878.4012 Adhesive wound closure. The Panel made the following recommendations regarding classification of the adhesive wound closure:

1. *Identification.* An adhesive wound closure is a nonabsorbable device intended to be sterilized before use that consists of a narrow strip of fabric or polymeric material with adhesive backing. It is intended to be applied to an incised wound in a patient's skin to draw together and hold closed the opposing wound edges.

2. *Recommended classification.* Class I. The Panel recommends that this device be exempt from the premarket notification procedures under section 510(k) of the act.

3. *Summary of reasons for recommendation.* The Panel recommends that the adhesive wound closure be classified into class I because the Panel believes that the device has a history of safe and effective use. The Panel believes that the materials used in the device are generally acceptable and need be subject to general controls only. The Panel recommends that the device be exempted from premarket notification because no useful purpose would be advanced by keeping the requirement in place.

4. *Summary of data on which the recommendation is based.* The Panel based this recommendation on the Panel members' knowledge of product data and clinical experience with the device.

5. *Risks to health.* None identified by the Panel.

FDA agrees with the Panel's recommendation and is proposing that the adhesive wound closure be classified into class I. If the device were contaminated with microorganisms or if the device loosens and falls off, FDA believes that it would present a risk of infection to a patient. However, FDA believes that the general controls of class I, particularly the controls of the CGMP requirements in 21 CFR part 820, would control these risks. FDA disagrees with the Panel's recommendation that the device be exempt from the requirement of premarket notification, because it is FDA's view that the device does not meet the criteria for exemption from premarket notification. FDA believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 878.4014 Nonabsorbable gauze surgical sponge for external use. The Panel made the following recommendations regarding classification of the nonabsorbable gauze surgical sponge for external use:

1. *Identification.* A nonabsorbable gauze surgical sponge for external use is a device intended to be sterilized before use that consists of a strip, piece, or pad made from absorbent open woven mesh cotton cellulose or a simple chemical derivative of cellulose. It is intended for medical purposes, such as to be placed directly on a patient's wound or burn to absorb excess body fluids or exudate.

2. *Recommended classification.* Class I. The Panel recommends that this device be exempt from the premarket notification procedures under section 510(k) of the act.

3. *Summary of reasons for recommendation.* The Panel recommends that the nonabsorbable gauze surgical sponge for external use be classified into class I because the Panel believes that the device has a history of safe and effective use. The Panel believes that the materials used in the device are generally acceptable and need be subject to general controls only. The Panel recommends that the device be exempted from premarket notification because no useful purpose would be advanced by keeping the requirement in place.

4. *Summary of data on which the recommendation is based.* The Panel based this recommendation on the Panel members' knowledge of product data and clinical experience with the device.

5. *Risks to health.* None identified by the Panel.

FDA agrees with the Panel's recommendation and is proposing that the nonabsorbable guaze surgical sponge for external use be classified into Class I. If the device were contaminated with microorganisms, FDA believes that it would present a risk of infection to a patient. However, FDA believes that the general controls of class I, particularly the controls of the CGMP requirements in 21 CFR part 820, would control this risk. FDA believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. FDA also agrees with the Panel recommendation regarding exemption from premarket notification for the device. Therefore, FDA is proposing that manufacturers of the device be exempt from the premarket notification procedures under section 510(k) of the act and Subpart E of 21 CFR part 807.

Section 878.4016 Burn sheet. The Panel made the following recommendations regarding classification of the burn sheet:

1. *Identification.* A burn sheet is a device intended to be sterilized before use that consists of a sheet of nonabsorbable material capable of absorbing exudate. It is intended to be used during medical emergencies during transport of a burn patient to a treatment facility. The device is intended for temporary use to prevent loss of body heat, absorb exudate, and provide a barrier to infection from microorganisms.

2. *Recommended classification.* Class I. The Panel recommends that this device be exempt from the premarket notification procedures under section 510(k) of the act.

3. *Summary of reasons for recommendation.* The Panel recommends that the burn sheet be classified into class I because the Panel believes that the device has a history of safe and effective use. The Panel believes that the materials used in the device are generally acceptable and need be subject to general controls only. The Panel recommends that the device be exempted from premarket notification because no useful purpose would be advanced by keeping the requirement in place.

4. *Summary of data on which the recommendation is based.* The Panel based this recommendation on the Panel members' knowledge of product data and clinical experience with the device.

5. *Risks to health.* None identified by the Panel.

FDA agrees with the Panel's recommendation and is proposing that the burn sheet be classified into class I.

If the device were contaminated with microorganisms, FDA believes that it would present a potential risk of infection to a patient. However, FDA believes that the general controls of class I, particularly the controls of the CGMP requirements at 21 CFR part 820, would control this risk. FDA believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. FDA also agrees with the Panel recommendation regarding exemption from premarket notification for the device. Therefore, FDA is proposing that manufacturers of the device be exempt from the premarket notification procedures under section 501(k) of the act and subpart E of 21 CFR part 807.

Section 878.4018 Hydrophilic wound and burn dressing. The Panel made the following recommendations regarding classification of the hydrophilic wound and burn dressing:

1. *Identification.* A hydrophilic wound and burn dressing is a device intended to be sterilized before use that consists of a nonabsorbable naturally derived material with hydrophilic properties that is capable of absorbing exudate. It is intended to be applied to a patient's wound or burn to absorb excess body fluids or exudate.

2. *Recommended classification.* Class I. The Panel recommends that there be no exemptions.

3. *Summary of reasons for recommendation.* The Panel recommends that the hydrophilic wound and burn dressing be classified into class I because the Panel believes that the device has a history of safe and effective use. The Panel believes that the materials used in the device are generally acceptable and need be subject to general controls only.

4. *Summary of data on which the recommendation is based.* The Panel based this recommendation on the Panel members' knowledge of product data and clinical experience with the device.

5. *Risks to health.* Electrolyte imbalance: Fluid loss may be a problem with this device, and should be monitored.

FDA agrees with the Panel's recommendation and is proposing that the hydrophilic wound and burn dressing be classified into class I with no exemptions. If the device were contaminated with microorganisms, FDA believes that it would also present a risk of infection to a patient. However, FDA believes that the general controls of class I, particularly the controls of the CGMP requirements in 21 CFR part 820, would control this risk. FDA believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 878.4020 Occlusive wound and burn dressing. The Panel made the following recommendations regarding classification of the occlusive wound and burn dressing:

1. *Identification.* An occlusive wound and burn dressing is a nonabsorbable device intended to be sterilized before use that consists of a piece of synthetic polymeric film with an adhesive backing or a synthetic polymeric foam. It is intended to be applied to cover a wound or burn on a patient's skin to provide a moist environment and allow the exchange of gases such as oxygen and water vapor through the device.

2. *Recommended classification.* Class I. The Panel recommends that there be no exemptions.

3. *Summary of reasons for recommendation.* The Panel recommends that the occlusive wound and burn dressing be classified into class I because the Panel believes that the device has a history of safe and effective use. The Panel believes that the materials used in the device are generally acceptable and need be subject to general controls only.

4. *Summary of data on which the recommendation is based.* The Panel based this recommendation on the Panel members' knowledge of product data and clinical experience with the device.

5. *Risks to health.* Infection: The risk of infection increases under an occlusive dressing.

FDA agrees with the Panel's recommendation and is proposing that the occlusive wound and burn dressing be classified into class I with no exemptions. If the device were contaminated with microorganisms, FDA believes that it would present an even higher level of risk of infection to a patient. However, FDA believes that the general controls of class I, particularly the controls of the CGMP requirements in 21 CFR part 820, would control the increased risk of infection from a device contaminated with microorganisms. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 878.4022 Hydrogel wound and burn dressing. The Panel made the following recommendations regarding classification of the hydrogel wound and burn dressing:

1. *Identification.* A hydrogel wound and burn dressing is a device intended to be sterilized before use that consists of a nonabsorbable matrix made of hydrophilic polymer or other naturally derived material in combination with water and capable of absorbing exudate. It is intended to cover a wound or burn on a patient's skin to control bleeding or fluid loss, absorb wound exudate, and protect against abrasion, friction, dessication, and contamination.

2. *Recommended classification.* Class I. The Panel recommends that there be no exemptions.

3. *Summary of reasons for recommendation.* The Panel recommends that the hydrogel wound and burn dressing be classified into class I because the Panel believes that the device has a history of safe and effective use. The Panel believes that the materials used in the device are generally acceptable and need be subject to general controls only.

4. *Summary of data on which the recommendation is based.* The Panel based this recommendation on the Panel members' knowledge of product data and clinical experience with the device.

5. *Risks to health.* None identified by the Panel.

FDA agrees with the Panel's recommendation and is proposing that hydrogel wound and burn dressing be classified into class I with no exemptions. If the device were contaminated with microorganisms, FDA believes that it would present a risk of infection to a patient. However, FDA believes that the general controls of class I, particularly the controls of the CGMP requirements in 21 CFR part 820, would control the risk of infection from a device contaminated with microorganisms. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Section 878.4024 Interactive wound and burn dressing. The Panel made the following recommendations regarding classification of the interactive wound and burn dressing:

1. *Identification.* An interactive wound and burn dressing is a device intended to be sterilized before use that is made from either synthetic or natural (such as porcine) materials. It is intended to actively promote the healing of a wound or burn by interacting directly or indirectly with body tissues. The device is intended to serve as a long-term skin substitute or temporary synthetic skin. While it is intended to perform certain minimal functions of the skin, subsequent wound covering is needed to close the wound. Key attributes of this device include wound protection, biocompatibility, stability, control of fluid loss, and reduction of wound contraction. The device also may be intended to prepare a wound bed for autograft.

2. *Recommended classification.* Class III. The Panel recommends that premarket approval of this device be a high priority.

3. *Summary of reasons for recommendation.* The Panel recommends that the interactive wound and burn dressing be classified into class III because the device is life-supporting and life-sustaining and it presents a potential unreasonable risk of illness or injury. The Panel believes that the materials used in the device should meet a generally accepted satisfactory level of tissue compatibility to reduce the risk of rejection by the body and to minimize any potential for long-term adverse tissue reaction. The Panel believes that general controls alone would not provide sufficient control over the performance characteristics of the device. The Panel also believes that insufficient information exists to determine that general controls or performance standards would be adequate to provide reasonable assurance of the safety and effectiveness of the device. The device, therefore, should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and, thus, assure its safety and effectiveness.

4. *Summary of data on which the recommendation is based.* The Panel based its recommendation on the Panel members' knowledge of product data and clinical experience with the device.

5. *Risks to health.* Hypersensitivity: Patient hypersensitivity to this device could lead to impaired wound healing.

FDA agrees with the Panel's recommendation and is proposing that the interactive wound and burn dressing be classified into class III. The agency believes that the device is life-supporting and life-sustaining. The device also presents a potential unreasonable risk of illness or injury from adverse tissue reaction and infection, and insufficient information exists to determine the appropriateness of the general controls to assure safety and effectiveness or to promulgate a standard.

The act requires the agency to classify a life-supporting or life-sustaining device into class III unless it determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case, the agency has determined that premarket approval is necessary, since insufficient information exists to determine that general controls or performance standards will provide reasonable assurance of the safety and effectivenss of the device.

Section 878.4026 Porcine burn dressing. The Panel made the following recommendations regarding classification of the porcine burn dressing:

1. *Identification.* A porcine burn dressing is a device intended to be sterilized before use that is made from pig skin. It is intended for use as a short-term dressing for burns.

2. *Recommended classification.* The Panel recommends that the porcine burn dressing intended for use as a short-term dressing for burns be classified into class I with no exemptions.

3. *Summary of reasons for recommendation.* The Panel recommends that the porcine burn dressing intended for use as a short-term dressing for burns be classified into class I with no exemptions because the Panel believes that the device has a history of safe and effective use. The Panel believes that the materials used in the device are generally acceptable and need be subject to general controls only.

4. *Summary of data on which the recommendation is based.* The Panel based its recommendation on the Panel members' knowledge of product data and clinical experience with the device.

5. *Risks to health.* The Panel identified the following risks to health: (a) Hypersensitivity; Patient hypersensitivity to this device could lead to impaired wound healing; and (b) Infection: The risk of infection could be increased with the use of this device.

FDA believes that if the device were contaminated with microorganisms, it would present an even higher level of risk of infection to a patient. However, FDA believes that the general controls of class I by themselves, particularly the controls of the CGMP requirements at 21 CFR part 820, would control the increased risk of infection from the short-term use of the device.

FDA agrees with the Panel's recommendation for the porcine burn dressing intended for short-term use and is proposing that the device be classified into class I with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device intended for short-term use.

I. Environmental Impact

The agency has determined under 21 CFR 25.24(e)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

J. Economic Impact

The agency has carefully analyzed the economic effects of this proposed rule and has determined that the rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. In accordance with section 3(g)(1) of Executive Order 12291, the agency has carefully analyzed the impact of this proposed rule and it has determined that the rule does not constitute a major rule as defined in section (b) of the Executive Order. Rules classifying devices into class I generally maintain the status quo: These devices are now subject only to the general controls provisions of the act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, and 360j) and under the final rule remain subject only to such controls either in their entirety or with certain exemptions. Devices classified into class III remain subject only to the general controls provisions of the act until an additional regulation is promulgated pursuant to section 515(b) of the act (21 U.S.C. 360e(b)) requiring that such devices have in effect approved applications for premarket approval. In accordance with section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)), devices classified by regulation into class III may remain in commercial distribution without an approved premarket approval application for 30 months following the effective date of classification of the device into class III, or for 90 days following the promulgation of a regulation under section 515(b) of the act (21 U.S.C. 360e(b)), whichever occurs later. In sum, device classification rules do not have a significant impact on a substantial number of small entities and are not major rules.

K. Comments

Interested persons may, on or before November 20, 1989, submit to the Dockets Management Branch (address above) written comments on this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the name of the device and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR part 878

Medical devices.

21 CFR part 880

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 878 and 880 be amended as follows:

PART 878—GENERAL AND PLASTIC SURGERY DEVICES

1. The authority citation for 21 CFR part 878 continues to read as follows:

Authority: Secs. 501(f), 510, 513, 515, 520, 701(a), 52 Stat. 1055, 76 Stat. 794–795 as amended, 90 Stat. 540–546, 552–559, 565–574, 576–577 (21 U.S.C. 351(f), 360, 360c, 360e, 360j, 371(a)); 21 CFR 5.10.

2. New § 878.4006 is added to subpart E to read as follows:

§ 878.4006 Intravascular catheter securement device.

(a) *Identification.* An intravascular catheter securement device is a nonabsorbable device intended to be sterilized before use that consists of a piece of fabric or polymeric material with adhesive backing. It is intended to be applied over a needle or catheter that has been inserted through a patient's skin to keep the hub of the needle or the catheter flat against and securely fastened to the skin.

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter.

3. New § 878.4008 is added to subpart E to read as follows:

§ 878.4008 Medical adhesive tape.

(a) *Identification.* Medical adhesive tape is a nonabsorbable device that consists of a strip of fabric or polymeric material with adhesive backing intended for medical purposes, such as to be applied to a patient's skin to secure a primary wound or burn dressing over a wound.

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of Part 807 of this chapter.

4. New § 878.4010 is added to subpart E to read as follows:

§ 878.4010 Medical adhesive bandage.

(a) *Identification.* A medical adhesive bandage is a device intended to be sterilized before use that consists of a strip of fabric or polymeric material with adhesive backing with an attached nonabsorbable wound dressing pad that does not contain an antiseptic or drug. The size of the device shall not exceed 4 inches by 1 and ⅛ inches (10 by 2.8 centimeters). The device is intended to serve as a dressing to cover a minor or superficial skin wound.

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter.

5. New § 878.4012 is added to subpart E to read as follows:

§ 878.4012 Adhesive wound closure.

(a) *Identification.* An adhesive wound closure is a nonabsorbable device intended to be sterilized before use that consists of a narrow strip of fabric or polymeric material with adhesive backing. It is intended to be applied to an incised wound in a patient's skin to draw together and hold closed the opposing wound edges.

(b) *Classification.* Class I.

6. New § 878.4014 is added to subpart E to read as follows:

§ 878.4014 Nonabsorbable gauze surgical sponge for external use.

(a) *Identification.* A nonabsorbable gauze surgical sponge for external use is a device intended to be sterilized before use that consists of a strip, piece, or pad made from absorbent open woven mesh cotton cellulose or a simple chemical derivative of cellulose. It is intended for medical purposes, such as to be placed directly on a patient's wound or burn to absorb excess body fluids or exudate.

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter.

7. New § 878.4016 is added to subpart E to read as follows:

§ 878.4016 Burn sheet.

(a) *Identification.* A burn sheet is a device intended to be sterilized before use that consists of a sheet of nonabsorbable material capable of absorbing exudate intended to be used during medical emergencies during transport of a burn patient to a treatment facility. It is intended for temporary use to prevent loss of body heat, absorb exudate, and provide a barrier to infection from microorganisms.

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter.

8. New § 878.4018 is added to subpart E to read as follows:

§ 878.4018 Hydrophilic wound and burn dressing.

(a) *Identification.* A hydrophilic wound and burn dressing is a device intended to be sterilized before use that consists of a nonabsorbable naturally derived material with hydrophilic properties that is capable of absorbing exudate. It is intended to be applied to a patient's wound or burn to absorb excess body fluids or exudate.

(b) *Classification.* Class I.

9. New § 878.4020 is added to subpart E to read as follows:

§ 878.4020 Occlusive wound and burn dressing.

(a) *Identification.* An occlusive wound and burn dressing is a nonabsorbable device intended to be sterilized before use that consists of a piece of synthetic polymeric film with an adhesive backing or a synthetic polymeric foam. It is intended to be applied to cover a wound or burn on a patient's skin to provide a moist environment and allow the exchange of gases such as oxygen and water vapor through the device.

(b) *Classification.* Class I.

10. New § 878.4022 is added to subpart E to read as follows:

§ 878.4022 Hydrogel wound and burn dressing.

(a) *Identification.* A hydrogel wound and burn dressing is a device intended to be sterilized before use that consists of a nonabsorbable matrix made of hydrophilic polymer or other naturally derived material in combination with water and capable of absorbing exudate. It is intended to cover a wound or burn on a patient's skin to control bleeding or fluid loss, absorb wound exudate, and protect against abrasion, friction, dessication, or contamination.

(b) *Classification.* Class I.

11. New § 878.4024 is added to subpart E to read as follows:

§ 878.4024 Interactive wound and burn dressing.

(a) *Identification.* An interactive wound and burn dressing is a device intended to be sterilized before use that is made from either synthetic or natural (such as porcine) materials. It is intended to actively promote the healing of a wound or burn by interacting directly or indirectly with body tissues. The device is intended to serve as a long-term skin substitute or temporary synthetic skin. While it is intended to perform certain minimal functions of the skin, subsequent wound covering is needed to close the wound. Key attributes of this device include wound protection, biocompatibility, stability, control of fluid loss, and reduction of wound contraction. The device also may be intended to prepare a wound bed for autograft.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval (see § 878.3).

12. New § 878.4026 is added to subpart E to read as follows:

§ 878.4026 Porcine burn dressing.

(a) *Identification.* A porcine burn dressing is a device intended to be sterilized before use that is made from pig skin. It is intended for use as a short-term dressing for burns.

(b) *Classification.* Class I.

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

13. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: Secs. 501(f), 510, 513, 515, 520, 701(a), 52 Stat. 1055, 76 Stat. 794–795 as amended, 90 Stat. 540–546, 552–559, 565–574, 576–577 (21 U.S.C. 351(f), 360, 360c, 360e, 360j, 371(a)); 21 CFR 5.10.

§§ 880.5090, 880.5180, 880.5210, and 880.5240 [Removed]

14. Part 880 is amended in subpart F by removing § 880.5090 *Liquid bandage,* § 880.5180 *Burn sheet,* § 880.5210 *Intravascular catheter securement device,* and § 880.5240 *Medical adhesive tape and adhesive bandage.*

Dated: August 26, 1989.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 89–22011 Filed 9–18–89; 8:45 am]

BILLING CODE 4160–01–M

federal register

Tuesday
September 19, 1989

Part IV

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

Airplane Engine Cowling Retention; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 26015; Notice No. 89-25]

RIN 2120-AD34

Airplane Engine Cowling Retention

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to the airworthiness standards for transport category airplanes to require improved engine cowling retention devices. A review of a number of inflight incidents where engine cowlings were lost revealed that the largest single cause of such losses was improper latching of the cowlings. If adopted, this proposal would provide additional design standards to detect improperly latched cowlings and ensure integrity of the latching system.

DATES: Comments must be received on or before March 19, 1990.

ADDRESSES: Comments on this proposal may be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), 800 Independence Avenue SW., Washington, DC 20591, or delivered in triplicate to: Room 915G, 800 Independence Avenue SW., Washington, DC 20591. Comments must be marked Docket No. 26015. Comments may be inspected in Room 915G weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Office of the Assistant Chief Counsel (ANM-7), FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments in the information docket may be inspected in the Office of the Assistant Chief Counsel weekdays, except Federal holidays, between 7:30 a.m. and 4.00 p.m.

FOR FURTHER INFORMATION CONTACT: Mike Pasion, FAA, Airframe & Propulsion Branch, ANM-112, Transport Airplane Directorate, Aircraft Certification Service, 17900 Pacific Highway South, C-68968, Seattle, Washington 98168; telephone: (206) 431-2116.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of proposals contained in this notice are invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit comments, in triplicate, to the Rules Docket address specified above. All comments will be considered by the Administrator before taking action on the proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26015." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

There have been a number of recent inflight incidents of engine cowling separations which have resulted in damage to the airplane or damage to property on the ground. Although none of the incidents resulted in injury to persons, they represent a potential hazard. The airplane damage caused by cowling separations has ranged from minor damage of airplane skin to rapid depressurization and loss of critical hydraulic systems. Damage to property on the ground has included cowling penetration of buildings and damage to automobiles. These occurrences indicate a need to reevaluate the airworthiness design requirements applicable to engine cowlings and the maintenance practices employed on those components. Further, the potential hazards due to engine cowling separations will be even greater with the advent of proposed "pusher" type powerplant installations.

Data from the FAA Service Difficulty System, as well as the service information provided by the major airplane manufacturers, have been reviewed relative to the loss of engine cowlings. This review has disclosed that improperly closed latches or fasteners, latch deterioration, and improper adjustment of the retention mechanisms were the primary causes of the cowling separations. Many latch designs operate with an overcenter device and positive lock that engages with the final latching motion. The latches can get out of adjustment or deteriorate as a result of wear and corrosion so that they appear locked when they are not. Latches have been found in which the positive locking device was deteriorated to the point that it no longer functioned.

Section 25.1193 of the Federal Aviation Regulations (FAR), Cowling and nacelle skin, is the primary regulation addressing the structural design of engine cowlings. Paragraph (a) of this section states: "Each cowling must be constructed and supported so that it can resist any vibration, inertia, and air load to which it may be subjected in operation." This design standard does not contain a requirement which specifically addresses the single failure of a latch or hinge nor does it consider an improperly fastened latch. Although the current regulations lack specific failsafe or damage tolerant design requirements for engine cowling retention systems, most manufacturers have generally applied their own failsafe criteria so that most cowlings are designed with multiple latches so that any one latch can fail without affecting cowling retention. Some designs are, however, inadequate in that they do not account for the flexibility of the structure and redistribution of the loading after a single latch failure occurs. As a result, designs purported to have been failsafe have failed after a single latch failure or improper latching of one latch.

The FAA has determined that standards for failsafe criteria should be included in Part 25 to ensure that an adequate level of safety is achieved by all manufacturers. These proposed criteria generally require that the retention systems be designed to withstand the loss of a single latch and that unlocked or improperly closed latches be easily detected. Continued retention of the cowling in flight during engine compartment fires and after

uncontained rotor failures must be a design objective, because the fire protection features required by § 25.1193 would be rendered ineffective if engine cowling retention failed under fire conditions.

The configuration and size of some cowlings could be such that the opening of a cowling could preclude continued safe flight and landing. (Note that the completion of safe flight and landing may include the use of any approved emergency procedures.) For example, a cowling that opens in such a manner as to create an excessively high asymmetric drag situation or severe buffeting, or a cowling whose separation could cause extensive damage to critical empennage or fuselage pressure vessel structure, could severely affect airplane flight characteristics. Furthermore, the cowlings of airplanes with pusher-propellers may have even greater potential for catastrophe. The loss of cowlings on those airplanes could damage the propeller blades, which could result in further catastrophic damage to the airplane. It is therefore proposed that inflight opening of any cowling which could preclude continued safe flight and landing be an extremely improbable event. As shown by service history, improper maintenance or operations actions, such as failure to properly close and lock a cowling or failure to identify an improperly closed and locked cowling, are not extremely improbable events. Therefore, for any cowling whose opening could preclude continued safe flight and landing, it is proposed that a cockpit warning means be provided to indicate to the flightcrew before takeoff that the cowling is not properly closed and locked.

Regulatory Evaluation

Benefit-Cost Analysis

The regulatory evaluation prepared for this NPRM analyzes the cost and benefit aspects of the proposed amendment to Part 25 of the FAR. The objective of this NPRM is to provide improved engine cowling retention for transport category airplanes produced under new type certificates by adding specific design requirements for cowling retention systems.

This NPRM was prompted by a recent review of the service experience of transport category airplanes which disclosed that the largest single cause of cowling losses is improper latching of the cowling. Although none of the damage caused by the separation of cowlings has prevented successful completion of the flights, those incidents have indicated a potential hazard. The potential hazards due to engine cowling separations will be even greater with the advent of pusher-propeller installations.

Benefits

The proposed rule is expected to accrue benefits in the form of enhanced safety. Such safety would take the form of reduced likelihood of casualty losses (serious injuries, fatalities, and property damage) that would occur as a result of aviation accidents in transport category airplanes caused by cowling losses. The secondary damage caused by cowling losses has ranged from minor damage of the airplane skin to rapid depressurization and loss of critical hydraulic systems. The FAA believes that the effects caused by such cowling losses could impede the continued safe flights and landings of transport category airplanes.

Estimation of these benefits, in monetary terms, is extremely difficult since there has not been a documented aviation accident in which either serious injuries or fatalities have resulted due to engine cowling losses. There have been, however, a number of incidents in recent years which indicate that a safety problem does exist with engine cowling losses (or separations).

Over the past 10 years, the FAA has examined a number of aviation incidents which involved engine cowling losses on transport category airplanes. Two examples of such incidents are given below:

Case One

In 1981, shortly after takeoff a Boeing 747, the tower reported that parts of cowling were found on the runway. The cowling for the left side of the number one engine was missing. The number five leading edge flap was damaged, requiring replacement, and there was a dent in the horizontal stabilizer. The right hand cowling was jammed rearward. The precooler inlet duct was ruptured. An investigation concluded that the separation was an isolated incident that was due to improperly latched cowling.

Cases Two and Three

On March 12, 1987, the FAA issues an airworthiness directive (AD) which requires the installation of a secondary retention system for the engine core cowl doors of certain McDonnell Douglas Model DC–10 and KC–10A series airplanes within 18 months after the effective date of the AD. Since the time the AD was issued, however, engine core cowl doors have separated from two DC–10 airplanes. In one case, the door separated from the airplane during takeoff, landed on the runway, and was struck by another airplane. The crew of the other airplane aborted the takeoff because they heard a loud, external noise. An investigation revealed that the impact of the engine core cowl door on the other airplane had caused two main landing gear tires to blow and one other tire to go flat because of slices in the casings. The aborted takeoff caused the brakes to overheat, melting the fuse plugs for fourteen additional tires. In another case, an engine core cowl door separated from the airplane during takeoff and struck the fuselage, creating a hole approximately 25 inches by 3 inches in the pressure shell. The door also hit the center engine inlet, creating two holes and additional damage in that structure.

These and other incidents clearly indicate that a safety problem associated with engine cowling losses does exist. This proposed rule is intended to significantly mitigate this safety problem.

Costs

The FAA estimates the total cost of compliance that would accrue from implementation of the proposed rule to be negligible. All of the U.S. manufactured transport category airplanes produced under new type certificates employ some means of protection against cowling losses; however, the FAA believes such safety measures do not go far enough in terms of preventing improper latching of the cowling.

The safety measures proposed in this NPRM would ensure that a sufficient level of safety would be maintained by adding specific design requirements for cowling retention systems. The difference between these proposed specific requirements and the general requirements that currently exist is not expected to be so large as to impose significant costs on manufacturers. In order to more accurately evaluate the cost impact this NPRM would potentially impose on aircraft manufacturers, the FAA strongly urges industry and the public to provide whatever data, information, or comments they may have.

Conclusion

In view of the aforementioned discussion on costs and benefits, the FAA has determined that the proposed rule is cost-beneficial. The Regulatory Evaluation that has been placed in the docket contains additional information related to the costs and benefits that are expected to accrue from the implementation of this proposed rule.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that all small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

Under the criteria of the Regulatory Flexibility Act, the FAA has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Since the Act applies to U.S. entities, only U.S. manufacturers of transport category airplanes would be affected. In the United States, there are two manufacturers that specialize in commercial transport category airplanes, The Boeing Company and the McDonnell Douglas Corporation. In addition, there are a number of general aviation (GA) entities that manufacture other transport category airplanes such as large business jets, including Cessna Aircraft, and Gates Lear Jet.

The FAA size threshold for a determination of a small entity for U.S. airplane manufacturers is 75 employees; any U.S. airplane manufacturer with more than 75 employees is considered not to be a small entity. None of the transport category airplane manufacturers is known to be a small entity. Thus, there would not be a significant economic on a substantial number of small entities as the result of the implementation of this proposal.

International Trade Impact Statement

The proposed rule is not expected to have an adverse impact either on the trade opportunities of U.S. manufacturers of transport category airplanes doing business abroad or on foreign aircraft manufacturers doing business in the United States. Since the certification rules are applicable to both foreign and domestic manufacturers, which sell in the United States, there would be no competitive trade advantage to either.

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficent federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion: For the reasons given above, the FAA has determined that this proposed regulation is not considered to be major under Executive Order 12291, or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA certifies that this proposed rule, if promulgated, would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since none would be affected.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Cowling, Cowl latches, Safety.

The Proposed Amendment

Accordingly, the FAA proposes to amend part 25 of the Federal Aviation Regulations (FAR), 14 CFR part 25, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 49 CFR 1.47(a).

2. By amending § 25.1193 by adding new paragraphs (f) and (g) to read as follows:

§ 25.1193 Cowling and nacelle skin.

* * * * *

(f) Each retention system for a removable or openable cowling must—

(1) Have a means to lock each cowling to prevent inflight opening which results from mechanical failure or failure of a single structural element, either during or after closure.

(2) Be designed and constucted to wiithstand the effects of the following conditions after failure or improper fastening of any single latching device:

(i) Vibration,

(ii) Inertial loads,

(iii) Over-pressure and normal air loads, and

(iv) Thermal conditions due to an engine compartment fire.

(3) Have a provision for direct visual inspection of the retention mechanism to verify the cowling is fully closed and locked. The provisions must be discernible under operational lighting conditions by appropriate crewmembers using a flashlight or equivalent lighting source.

(g) For any cowling, the opening of which could preclude continued safe flight and landing, there must be a visual warning means in the cockpit to alert the flightcrew before takeoff that the cowling is not properly closed and locked. The cowling must be designed so that opening in flight is extremely improbable.

Issued in Washington, DC, on September 13, 1989.

Daniel P. Salvano,

Acting Director, Aircraft Certification Service.

[FR Doc. 89-22041 Filed 9-18-89; 8:45 am]

BILLING CODE 4910-13-M

federal register

Tuesday
September 19, 1989

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Late Season Migratory Bird Hunting Regulations; Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

RIN-1018-AA24

Migratory Bird Hunting; Final Frameworks for Late Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final late-season frameworks from which States may select season dates, limits and other options for the 1989–90 migratory bird hunting season. These late seasons include most waterfowl seasons, the earliest of which generally commence on or about October 1, 1989. The effects of this final rule are to facilitate the selection of hunting seasons by the States and to further the establishment of the late-season migratory bird hunting regulations for 1989–90. State selections will be published in the **Federal Register** as amendments to §§ 20.104 through 20.107 and § 20.109 of Title 50 CFR part 20.

EFFECTIVE DATE: This rule takes effect on September 19, 1989.

ADDRESSES: Send State season selections to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Room 634-Arlington Square, Washington, DC 20240. Comments received on the proposed late-season frameworks are available for public inspection during normal business hours in Room 634, Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Byron K. Williams, Acting Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 634-Arlington Square, Washington, DC 20240. Telephone (703) 358–1714.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

On March 27, 1989, the Service published for public comment in the **Federal Register** (54 FR 12534) a proposal to amend 50 CFR part 20, with comment periods ending July 23, 1989, for early-season proposals; and August 28, 1989, for the late-season proposals. The March 27 document dealt with the establishment of hunting seasons, hours, areas and limits for migratory game birds under §§ 20.101 through 20.107, 20.109 and 20.110 of subpart K. On July 6, 1989, the Service published in the **Federal Register** (54 FR 24290) a second document consisting of a supplemental proposed rulemaking dealing with both the early- and late-season frameworks. On July 13, 1989, the Service published for public comment in the **Federal Register** (54 FR 29640) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early-season migratory bird hunting regulations. On August 11, 1989, the Service published a fourth document (54 FR 32975) containing final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico and the Virgin Islands selected early-season hunting dates, hours, areas and limits for 1989–90. The fifth document in the series, published August 16, 1989, in the **Federal Register** (54 FR 33721), deals specifically with proposed frameworks for the 1989–90 late-season migratory bird hunting regulations. On August 30, 1989, the Service published in the **Federal Register** (54 FR 36008) a sixth document consisting of a final rule amending subpart K of Title 50 CFR part 20 to set hunting seasons, hours, areas and limits for mourning, white-winged and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sea ducks in certain defined areas of the Atlantic Flyway; experimental September duck seasons in identified States; experimental and special September Canada goose seasons in portions of identified States; sandhill cranes in the Central and Pacific Flyways; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some extended falconry seasons. The seventh in the series is this document which establishes final frameworks for late-season migratory bird hunting regulations for the 1989–90 season.

Review of Comments and the Service's Response

Public hearing and written comments received through September 1, 1989, relating to proposed late season frameworks are discussed and addressed here. The comments are discussed in the same order as the numbered items to which they apply. Only current numbered items are included. A continuous list of all the numbered items used in Service documents appeared in the March 27, 1989, **Federal Register** (54 FR 12534).

General Comments: The Wildlife Legislative Fund of America expressed gratification at the improved level of cooperation this year between the Service and the Flyway Councils in regard to migratory bird hunting regulations. However, one local organization expressed disappointment at the lack of cooperation.

Response: The Service recognizes the value of cooperation with the Flyway Councils, States, and all interested organizations and individuals. We will strive for improved relations and cooperation.

1. Shooting Hours

Public Hearing: Mr. Frank Anderson, representing the Concerned Coastal Sportsmen's Association, Mr. John Sawyer, representing the Western Massachusetts Duck Hunters Association, Mr. Jerry Woodmansee, representing the Andover Sportsmen's Club, Inc., Mr. Jim Yoos, representing the New Jersey Waterfowl Association, Mr. Bert Jones, representing the Louisiana Wildlife and Fisheries Commission, Mr. Randy Wheeler, representing the Wetlands Habitat Alliance of Texas, Mr. Leon Kirkland, representing the Atlantic Flyway Council, and Mr. Jim Phillips, writer and duck hunter, supported returning to shooting hours which begin at one-half hour before sunrise and extend to sunset. Mr. Doug Inkley, representing the National Wildlife Federation, cautiously supported the return to pre-sunrise shooting and Mr. George Reiger, an editor for Field & Stream magazine, supported the return only if additional restrictions in season length and bag limits are implemented. Mr. John M. Anderson, representing the National Audubon Society, requested that pre-sunrise shooting not be reinstated until it can be shown to have no adverse impact on the harvest of hen mallards and black ducks. Mr. Charles Potter, representing the North American Wildlife Foundation, recommended against the return to pre-sunrise shooting while Mr. John Grandy, representing the Humane Society of the United States, recommended that shooting hours be further restricted and not begin until one-half hour after sunrise.

Written Comments: A total of 251 letters were received from 241 individuals and organizations

concerning the proposed shooting hours. Of the 241 commenters (479 signatures), 225 (463 signatures) supported the Service's proposal for pre-sunrise opening. These included the Atlantic, Central and Pacific Flyway Councils; the Lower Region Regulations Committee of the Mississippi Flyway Council; the State wildlife agencies of Arizona, Arkansas, California, Colorado, Louisiana, Massachusetts, Mississippi, Missouri, Montana, New Mexico, New York, Oklahoma, and South Carolina; the California Fish and Game Commission; the Tourism Promotion Division of the North Dakota Economic Development Commission; the Texas Agricultural Extension Service; the Louisiana Wildlife Federation; the New York State Conservation Council; the Wetland Habitat Alliance of Texas; the Alaska, California, and South Carolina Waterfowl Associations; the Sportsmen Conservationists of Texas; 5 local organizations; 1 Congressman representing hunters in his District; and 192 individuals. Those opposing the Service's proposal were the Upper Region Regulations Committee of the Mississippi Flyway Council, the States of Illinois and Wisconsin, the Minnesota Waterfowl Association, the Fund for Animals, Inc., and 11 individuals. One local organization suggested opening shooting hours 15 minutes before sunrise for teal only. The Outdoor News magazine from Minnesota provided a partial summary of a printed questionnaire. They provide some interpretation of the unfinished survey indicating a slight preference for pre-sunrising shooting. Arguments presented in support of a pre-sunrise opening include:

a. Hunters value the pre-sunrise period and the suspension is eroding participation and support. Many duck species remain numerically low in 1989 and hunter participation is declining, partly due to the restrictive shooting hours. Although restrictive shooting hours may help reduce harvest somewhat, reduced hunter support results in less incentive for private management of wetlands and fewer funds available for habitat acquisition.

b. Suspension of pre-sunrise shooting will have uncertain impacts on the harvest and the harvest composition. Many fear that it will shift harvest from "early-flying" species, such as the wood duck, to "later-flying" species, such as mallards and pintails.

c. The Service accomplished more than its goal of a 25 percent reduction in 1988–89. Many commenters believe that the restrictive shooting hours are not necessary to continue to achieve this goal, and further believe that restrictive shooting hours would save few ducks. Some commenters also mentioned that relatively small daily bag limits and a tendency to hunt later into the day will negate any "savings".

d. Restrictive shooting hours resulted in a loss of opportunity to harvest other species such as wood ducks and geese.

e. Many commenters said they would prefer other restrictions, such as a shorter season or smaller bag limits, to restrictive shooting hours.

f. The suspension will confound other regulatory evaluations.

g. The restriction will likely increase shooting-hour violations.

Those favoring the more restrictive sunrise opening felt that it does help to reduce harvest and aids species identification.

Response: The available evidence regarding the impact of shooting hours on harvest levels is unclear. Information from previous studies, summarized in a 1977 Environmental Assessment on shooting hours, indicates that only 12–15 percent of the duck harvest occurs during the one-half hour before sunrise. Assuming that some of this harvest would still occur after sunrise with restrictive shooting hours, this suggests that the impact on harvest reduction of restricting shooting hours to a sunrise opening likely is small. Further, the studies mentioned above also suggest that the impact of a later opening differs among species. For example, the proportion of harvest occurring during the one-half hour before sunrise was 25 percent for wood ducks (whose status is satisfactory) versus 12 percent for black ducks, 14 percent for redheads, and 7 percent for canvasbacks. This lends some support to the argument presented above that delaying the opening of shooting hours may shift hunting pressure toward species of greatest concern. Regardless of the time of day, species specific regulations place a burden of responsibility on hunters and they must choose whether to shoot or not.

Because of (1) the uncertainty about the impact of shooting hours on harvest, particularly among species, (2) the overwhelming sentiment among commenters favoring pre-sunrise shooting hours, and (3) other components of strategy to restrict harvest to levels comparable to last year. The Service believes it is appropriate to return to the one-half hour before sunrise opening of shooting hours for the 1989 hunting seasons.

2. Framework for Ducks in the Conterminous United States—Outside Dates, Season Length, and Bag Limits

a. Harvest Strategy

Public Hearing Comments: Mr. Frank Anderson, representing the Concerned Coastal Sportsmen's Association, Mr. John Sawyer, representing the Western Massachusetts Duck Hunters Association, Mr. Jerry Woodmansee, representing the Andover Sportsmen's Club, Inc., Mr. Jim Yoos, representing the New Jersey Waterfowl Association, and Mr. Leon Kirkland, representing the Atlantic Flyway Council argued that ducks harvested in the Atlantic Flyway are not derived from the drought stricken mid-continent region and that the flyway should not be subjected to the same harvest restrictions imposed on the Central and Mississippi Flyways. They maintain that populations breeding in eastern Canada and the northeastern States have not declined and are more productive than western populations; and as a result, express concern that the Service is managing duck populations with a "broad brush" approach rather than on a flyway basis. Mr. Randy Wheeler, representing the Wetlands Habitat Alliance of Texas, believed that the proposed regulations are overly restrictive. Mr. Bert Jones, representing the Louisiana Wildlife and Fisheries Commission, applauded the Service for not further reducing hunting opportunity and Mr. Mike Berger, representing Ducks Unlimited, Inc., stated that duck hunters are willing to take a conservative approach to harvest but that regulations should be based on sound biology. Mr. Doug Inkley, representing the National Wildlife Federation, Mr. Gary Myers, representing the Wildlife Society, and Mr. John M. Anderson, representing the National Audubon Society, supported maintaining the conservative duck regulations. Mr. John H. Vizer, III, representing the Berry B. Brooks Foundation, said that many people favor a complete closure of duck hunting, but indicated that such a closure may not generally be accepted and so he urged that the 1988 restrictive regulations be maintained in 1989. Mr. Charles Potter, representing the North American Wildlife Foundation, Mr. George Reiger, an editor for Field & Stream magazine, Mr. John Grandy, representing the Humane Society of the United States, and Mr. Jim Phillips, writer and duck hunter, recommended restricting regulations further in 1989.

Written Comments: A member of Congress from Massachusetts, the Atlantic Flyway Council, the State

wildlife agencies of Massachusetts and New York, the New York State Conservation Council, the New Hampshire Waterfowl Association, 3 local organizations and 4 individuals commented that harvest regulations for the Atlantic Flyway have been unnecessarily restrictive. Many of these asked that the Service consider a return to a 40-day season. They argue that there is no biological justification for imposing shorter seasons and impacting hunter participation when many of the ducks harvested in the Flyway breed in eastern Canada and the northeastern States and have not declined to the same extent as western breeding populations. They cite the improved population index of major dabbling and diving duck species during the mid-winter survey in the Flyway as evidence for more liberal season lengths and state that more than enough data is available to warrant a conservative 40-day season. In general, they express concern that the Service has ignored recommendations of the Atlantic Flyway Council and that the lack of fairness in setting regulations for the Atlantic Flyway will "continue to erode hunter support and cause further declines in duck stamp sales." The Central Flyway Council expressed support for the proposed frameworks but opposed the suspension of special harvest strategies. The Pacific Flyway Council stated that the restrictive regulations and the low fall flight contributed to the abandonment of waterfowl hunting in 1988 and may have damaged some States' ability to maintain waterfowl management programs and private sector support of wetland habitat. The States of California, Colorado, and South Carolina, the New York State Conservation Council, the California Waterfowl Association, 4 local organizations, and 10 individuals remarked that restrictions were excessive. The State of Missouri said restrictions were substantial and necessary, however, the Service should refrain from further modifications in 1989. If additional restrictions are warranted, they suggest the Service consider those regulations components that have the most predictable impact on harvest, such as season length and framework dates. The South Carolina Waterfowl Association was in favor of conservative, but not overly restrictive, regulations. The States of Minnesota and Wisconsin, the North Dakota Tourism Promotion, The Wildlife Management Institute, and 11 individuals supported restrictive regulations. The Minnesota Waterfowl Association, the Fund for Animals, Inc., and 13 individuals recommended further restrictions. Many commenters were concerned that restrictive regulations were contributing to decreased hunter participation and a decline in duck stamp sales. They cited associated declines in financial support for waterfowl and less incentive for private land management efforts.

Response: In 1988, restrictive regulations and low population levels of ducks resulted in a harvest reduction of about 50 percent from the 1987 harvest level. The Service anticipates a fall flight in 1989 similar to that of 1988 and believes maintaining the harvest at reduced levels is appropriate considering the poor status of ducks. Harvest rates are higher in the Atlantic and Mississippi Flyways than in the Central and Pacific Flyways, and this is reflected in regulations that are more restrictive in the East. Little production data is available from outside the surveyed areas upon which to base management programs. Also, ducks migrating to the Atlantic Flyway originate both from within and outside the surveyed areas. The Service acknowledges the need for expanded population and production surveys to facilitate the management of waterfowl by individual flyways or population management units. The Service, in cooperation with Canadian interests, is striving to initiate breeding ground surveys in the currently unsurveyed portions of eastern Canada and northeastern United States. The Service is concerned about the decreased participation in duck hunting and does attempt to provide that amount of recreational opportunity that can be accommodated without damaging the resource. Our goal is to establish regulations that protect the breeding stock and yet provide sufficient recreational opportunity to retain hunters that support and fund habitat and management efforts. We recognize that for some, hunting opportunities are necessary incentives to maintain waterfowl habitats, while others would maintain habitat even during closed seasons. The Service appreciates the support for conservative frameworks and encourages the continued support for habitat management programs. The 1989 frameworks (framework dates, season length and bag limits) are essentially the same as those in effect during 1988–89.

b. Framework Dates

i. *Opening and Closing Dates—Public Hearing Comments:* Mr. Doug Inkley, representing the National Wildlife Federation, recommended maintaining restricted framework dates with a closing date of January 7 for ducks in all flyways.

Written Comments: The Atlantic Flyway Council recommended that the regular season framework for ducks in the Atlantic Flyway open on October 1, 1989 and close on January 8, 1990. They stated that this earlier opening date will provide northern States increased opportunity to harvest birds produced in eastern areas and that continuing last years closing date will maintain restrictions on the harvest of prairie-produced birds in the southern portion of the flyway. The Upper Region Regulations Committee of the Mississippi Flyway Council, and the Pacific Flyway Council recommended framework dates of October 7 through January 7. The Lower Region Regulations Committee of the Mississippi Flyway Council recommended frameworks closing on January 14, 1990. The Central Flyway Council recommended that season framework dates should begin on the Saturday nearest October 1 (9/30/89) and on the Sunday nearest January 20 (1/21/90) as allowed for many years. The Colorado Division of Wildlife supported the Central Flyway Council recommendation for a floating framework and added that mid-latitude States with high elevations and early freeze-up are unduly restricted. The National Wildlife Federation supported the closing date of January 7. The States of Missouri and Wisconsin supported the Service proposal for framework dates. One individual from Virginia and one from Texas requested later framework dates.

Response: The period during which hunting seasons can be held is an important influence on harvest levels. In 1988, the Service further restricted framework dates as part of an overall regulations package designed to reduce harvest. Without this change in framework dates even greater restrictions in other regulations would have been necessary to reach the harvest reduction obtained. Framework dates for 1989, October 7 through January 7, are essentially the same as in 1988–89.

ii. *Rest Days—Public Hearing Comments:* Mr. Frank Anderson, representing the Concerned Coastal Sportsmen's Association, Mr. John Sawyer, representing the Western Massachusetts Duck Hunters Association, Mr. Jerry Woodmansee, representing the Andover Sportsmen's Club, Inc., and Mr. George Reiger, an editor for Field&Stream magazine

recommended compensatory days be given to States with prohibitions against hunting on Sundays.

Written Comments: Compensatory days were recommended by a member of Congress from Massachusetts and 3 individuals to make-up for days lost to hunting on Sundays due to State restrictions. Some individuals endorsed rest days. One individual recommended hunting on Wednesdays through Saturdays only, 1 individual recommended no hunting on Wednesdays and Sundays, and another recommended no hunting on Mondays or Thursdays.

Response: It is noted that the rest days that result because of no Sunday hunting may not represent a reduced harvest of waterfowl. In fact, rest days are a well recognized harvest management techniques and many gunning clubs, private properties, and State-managed areas regularly institute rest days and half-day shooting to hold birds and prolong and increase harvest opportunities. Under these circumstances, it does not appear that States that ban Sunday hunting are at a disadvantage in terms of waterfowl harvest. The Service has addressed a ban on Sunday hunting previously and continues to believe that the loss of opportunity because of a State restriction is a matter for local resolution. In regard to allowing additional days for closed periods during an open season, such an adjustment is considered a form of season splitting. The Service currently allows a maximum of 3 splits in Atlantic and Central Flyway States in lieu of zoning and only 2 splits in all States that zone. The Service does not offer compensatory days.

c. Season Length

Public Hearing Comments: Mr. Frank Anderson, representing the Concerned Coastal Sportsmen's Association, Mr. John Sawyer, representing the Western Massachusetts Duck Hunters Association, Mr. Jerry Woodmansee, representing the Andover Sportsmen's Club, Inc., Mr. Jim Yoos, representing the New Jersey Waterfowl Association, and Mr. Leon Kirkland, representing the Atlantic Flyway Council, recommended a 40-day season for the Atlantic Flyway. Mr. George Reiger, an editor for Field & Stream magazine, recommended a 20-day season and Mr. Jim Phillips, writer and duck hunter, recommended a 21-day season.

Written Comments: The Atlantic Flyway Council recommended a 40-day season in that Flyway and stated that this season length would represent a compromise between a desire for increased harvest in the northern end of the flyway and continued conservative harvest in the southern end of the flyway. The Lower Region Regulations Committee of the Mississippi Flyway Council supported contiuation of last year's season lengths. The Pacific Flyway Council presented a package that would allow States an option of 7 additional days in lieu of other options, but othewise supported continuations of the 1988 season lengths. The Colorado Division of Wildlife recommends using season length for making adjustments in harvest when it is backed up by solid data. The South Carolina Waterfowl Association recommends using season length to achieve reductions in harvest if that action is needed. Many other commenters remarked that season length was a preferred regulatory mechanism for controlling harvest. The State wildlife agencies of Massachusetts and New York, the New York State Conservation Council, the California and New Hampshire Waterfowl Associations, 3 local organizations, and 6 individuals recommended longer duck hunting seasons. The States of Missouri and Wisconsin and 2 individuals supported the proposed season lengths; while 4 individuals recommended shorter seasons. In addition, the Arkansas Game and Fish Commission made a proposal for forfeiting afternoon hunting in exchange for a longer season.

Response: Season length is an important mechanism in regulating harvest. Season lengths were reduced proportionately in all flyways in 1988 as part of a regulations package designed to reduce harvest. Since population levels have not improved for many species of ducks since last year, the Service believes that increasing the season length is not warranted. In regard to the Arkansas proposal, the Service notes that half-day shooting is a managment technique used to hold birds to prolong and increase harvest opportunities. Morning only hunting will not likely result in reduced harvest. The 1989 season lengths are essentially the same as those in effect during 1988–89.

d. Closed Seasons

Public Hearing Comments: Mr. John H. Vizer, III representing the Berry B. Brooks foundation, indicated that while many people favor complete closure of duck hunting, this may not be generally accepted. Mr. John Grandy, representing the Humane Society of the United States, recommended complete closure on all ducks, especially on harlequin ducks in the Atlantic Flyway and nationwide for pintails. Mr. Jim Phillips, writer and duck hunter, and Mr. Doug Inkley, representing the National Wildlife Federation, recommended closures on pintail hunting in 1989–90.

Written Comments: The Atlantic Flyway Council recommended a closure on harlequin ducks to provide added protection to the small eastern population that winters in eastern Canada and the northeast United States. In regard to the general duck season, one individual stated a willingness to accept a temporary closure as long as it did not become permanent, while another individual recommended closing the season in alternating geographical regions if populations warranted this action. A closed season for ducks in 1989 was requested by 12 individuals. The National Wildlife Federation recommended a closed season for canvasbacks and pintails, while the Fund for Animals, Inc., recommended a closed season for all ducks but especially for canvasbacks, harlequin ducks, pintails, and black ducks.

Response: The Service acknowledges concern regarding the harlequin duck. The 1989 frameworks include a closed season on harlequin ducks in the Atlantic Flyway. The closure on canvasback ducks has been lifted in the Pacific Flyway only and is dicussed under item 12. *Canvasback and Redhead Ducks.* In regard to pintails, the Service considered but rejected the alternative of no open season on pintails. The pintail nests throughout the northern hemisphere from the tundra to areas in North America as far south as the Central Valley of California. Its primary breeding area is the arid grassland of the northcentral States and southern Canada, though significant breeding stocks are found in open habitats within and along the edges of the boreal forest. The pintail population of the prairies has been declining since the early 1970's. The primary cause of the pintail population decline is drought in the prairies. Suitable conditions for pintail reproduction have not occurred on the prairies for more than a decade. The Service regulations in recent years have recognized the low population levels of the pintail. These regulations have been effective in sharply reducing the harvest rate on pintails and the Service believes the 1989–90 frameworks provide adequate protection for this year's flight. However, if the traditional breeding areas of this species remain dry and declines in North American stocks of pintails continue, hunting restrictions, including complete closure, will be considered. In regard to a nationwide closure on duck hunting, the Service considered this option in the Environmental Assessment, *Waterfowl Hunting Regulations for 1989.*

Restrictive regulations were established in 1988 and are being continued in 1989, however, complete closure is acknowledged as a possible future action depending upon habitats and populations. Many correspondents noted that a closed season would eliminate most of the revenue that is currently received from license and stamp sales, as well as eliminate private landowner incentives to maintain habitat. The Service has attempted to balance all the arguements in its proposed action. As further protection, the Service may institute specific closures if the need arises.

e. Bag Limits

i. *Conventional Limits—Public Hearing Comments:* Mr. George Reiger, an editor for Field & Stream magazine, recommended a bag limit of 2 ducks. Mr. Jim Phillips, writer and duck hunter, recommended a "3–2–1" limit whereby only 3 ducks could be taken, but no more than 2 of any species and no more than 1 hen mallard or 1 black duck or 1 redhead duck. Mr. Phillps further recommended a nationwide closure on pintails as did Mr. Doug Inkley, representing the National Wildlife Federation, and Mr. John Grandy, representing the Humane Society of the United States.

Written Comments: The Atlantic and Central Flyway Councils, and the Upper Region Regulations Committee of the Mississippi Flyway Council, recommended continuing last year's limits. The Lower Region Regulations Committee of the Mississippi Flyway Council recommended continuing the 3-bird bag, but would include species restrictions that would only allow 1 black duck or 1 hen mallard. The Pacific Flyway Council recommended the same limits as were in effect during 1988–89 for all ducks except canvasbacks, and species restrictions in bag limit to include 1 canvasback, 2 redheads, or 1 canvasback and 1 redhead combination. The Colorado Division of Wildlife endorsed using bag limits to adjust harvest levels. The States of Minnesota, Missouri, and Wisconsin, 1 local organization, and 9 individuals supported the proposed limits. The New York State Conservation Council recommended remaining at a 3 duck per day bag limit. Although they felt this limit is too restrictive, they said it may be wise to remain with this limit for 1989. The States of California and New York, the California Waterfowl Association, 2 local organizations, and 7 individuals recommend increasing the bag limit. Further restrictions were recommended by 4 individuals. Many commenters, especially those that support a point system, encouraged the Service to restrict on duck species that are at depressed levels, but to increase hunting opportunity on abundant species. One individual recommended a 4-mallard limit for the Pacific Flyway. The Alaska Department of Fish and Game, the California Fish and Game Commission, and one individual requested liberalization for pintails while one hunting club in Texas requested additional restrictions on pintails.

Response: The Service believes that continuing last year's restrictive bag limits is appropriate given the current status of ducks. The Service agrees with the philosophy of shifting harvest to more abundant species, but the opportunity for this action is limited to 1989. The restrictive version of the point system in the Mississippi and Central Flyways is an effort to shift harvest away from species at particularly low levels. The Service believes that it is prudent to provide the current level of protection to all species pending improvements on the breeding grounds and corresponding rebound in population levels.

ii. *Point System—Public Hearing Comments:* Mr. Randy Wheeler, representing the Wetlands Habitat Alliance of Texas, encouraged reinstatement of the point system with changes that would provide an incentive for hunters to direct their harvest toward more abundant species. Mr. George Reiger, an editor for Field & Stream magazine, and Mr. John M. Anderson, representing the National Audubon Society, recommended against reinstatement because the prohibition against reordering is difficult to enforce.

Written Comments: One member of Congress from Texas, the Lower and Upper Region Regulations Committees of the Mississippi Flyway Council, the Central and Pacific Flyway Councils, the State wildlife agencies of Colorado, Missouri, New Mexico and Oklahoma, the Texas Agricultural Extension Service, 2 local organizations from Texas, and 59 individuals from Texas, recommended that the point system option be reinstated. They cited the greater ability of that system over the conventional bag limit in reducing harvest on species of greatest concern, such as mallards and pintails, while redirecting harvest toward species such as green-winged teal which exhibit better status. The Wisconsin Bureau of Wildlife Management recommended that, with continuing low populations of ducks, the strongly conservative frameworks initiated in 1988 be maintained. One local organization from Texas recommended against its reinstatement due to the "reordering" problem. The Fund for Animals, Inc., and 3 individuals recommended against reinstatement of the point system, suggesting that the system is likely to cause abuse of the regulations, and another individual described how the point system is more conservative but did not make a specific recommendation. The Atlantic Flyway Council made no specific recommendation but indicated it is reviewing information on the point system.

Response: The Service is offering the point system this year in the Central and Mississippi Flyways, but the point values are such that no more of any one species or total ducks may be taken than under the conventional bag, thus, it is at least as restrictive as, and potentially more restrictive than, the conventional bag system. The Service believes this restrictive form of the point system, which was recommended by the Central Flyway Council, reflects the poor status of most duck populations and will result in the taking of no more ducks, and probably fewer, than would be taken under the conventional bag. A thorough evaluation of the point system is still underway and should be completed prior to the 1990 regulations cycle.

3. American Black Ducks

Written Comments: The Atlantic Flyway Council, the Upper Region Regulations Committee of the Mississippi Flyway Council, and a representative from the New York State Conservation Council supported continuation of the one black duck daily bag limit.

Response: Efforts to maintain a reduced level of harvest on black ducks continue in effect in the Atlantic and Mississippi Flyways. The Service notes the support for the black duck bag limit.

4. Wood Ducks

i. *Increasing Bag Limit—Written Comments:* Ten individuals from Texas recommended that the bag limit on wood ducks in that State be liberalized, with some specifying a change to allow 3 instead of 2 wood ducks in the bag. The rationale presented is that wood ducks in east Texas appear to be very abundant.

Response: The Service believes that recommendations for more liberal bag limits, seasons, and other regulations should be fully considered by the appropriate Flyway Councils since any liberalization such as this would affect more than just the State where it is

proposed. Wood duck bag limit restrictions have been in place since the early 1900's when the species was at critically low levels. Some special harvest opportunities have been allowed in the Mississippi and Atlantic Flyways in recent years, but only after considerable research and banding efforts indicated that additional harvest would not adversely affect local or migrant populations. Even these are being reconsidered in light of apparent declines in survival rates and a lack of adequate banding and population data. Consideration of a more liberal bag limit for wood ducks in east Texas would first need to be justified through studies of the population status and an adequate banding program on a regionwide or flywaywide basis. Thus, the Service will not liberalize the wood duck bag limit in Texas at this time.

ii. *Liberal October Option—Public Hearing Comments:* Mr. Leon Kirkland, representing the Atlantic Flyway Council, recommended continuing the liberal October wood duck bag limit option.

Written Comments: The Atlantic Flyway Council, the North Carolina Wildlife Resources Commission, and 1 individual from North Carolina recommended that the liberal October bag limit option be continued and that the Service provide guidelines for improving the evaluation of these seasons. North Carolina argued that the Service action to suspend these seasons was unexpected, capricious, and inconsiderate of the time and money spent to date to band wood ducks. Also, since the status of wood ducks is a non-crisis situation, they argue that the Service has "clearly jumped the gun" and not acted in a consistent manner to suspend seasons in other States having early wood duck options.

Response: In a letter to the Atlantic Flyway Council dated July 28, 1988, the Service requested that existing information on wood duck harvests be reviewed, data requirements be considered, and management goals be outlined. In the **Federal Register** dated March 27, 1989 (54 FR 12539), the Service gave notice of possible change pending the completion of this review. At this point, data requirements for special harvest opportunities on wood ducks have not been fulfilled and the Service, Council and individual States collectively have failed to deal with the issue broadly enough. Pending the outcome of the review and development of an overall wood duck harvest strategy the liberal October option is suspended. The Service will await the Flyway's review before making future recommendations for special harvest opportunities on wood ducks.

7. Extra Teal Option

Public Hearing Comments: Mr. Frank Anderson, representing the Concerned Coastal Sportsmen's Association, Mr. John Sawyer, representing the Western Massachusetts Duck Hunters Association, Mr. Jerry Woodmansee, representing the Andover Sportsmen's Club Inc., Mr. Jim Yoos, representing the New Jersey Waterfowl Association, and Mr. Leon Kirkland, representing the Atlantic Flyway Council, recommended a bonus option of 2 green-winged teal for 9 days.

Written Comments: The Atlantic, Central and Pacific Flyway Councils reviewed the issue of bonus teal and other bonus ducks in the bag limit and recommend that options for bonus ducks, including teal, be offered when the status of the species involved warrant additional harvests. The New York Division of Fish and Wildlife supported bonus teal options, indicating that the State was unfairly restricted in 1988 when bonus ducks were suspended. The South Carolina Wildlife and Freshwater Fisheries Division recommended that bonus green-winged teal be reinstated in the bag limit, citing the relatively healthy status of this species and the need to take advantage of these species by providing additional hunting opportunity on those species when the status of other species is poor. The Upper Region Regulations Committee of the Mississippi Flyway Council and the Wisconsin Bureau of Wildlife Management recommended against allowing bonus teal, citing the poor status of duck populations in general. Two conservation organizations and 2 local organizations recommended that bonus teal options be reinstated in the Atlantic Flyway. Eight individuals, all but one from Texas, made general recommendations for more liberal limits on teal.

Response: Bonus teal options offered in the past were designed to take advantage of blue-winged teal which were believed to be lightly harvested. The bonus option was available to those States not eligible for or not taking a special September teal season. Green-winged teal were included primarily because of the problem of distinguishing between the two species and because the harvest of greenwings as bonus birds was low compared to the normal, regular season harvest of greenwings. No Service bonus options were designed to direct harvest specifically toward green-winged teal. At the present time, blue-winged teal populations are at a record low level. Further, because of overall low duck populations, special harvest options do not seem warranted at this time. Therefore, the extra teal bonus is suspended in 1989.

9. Special Scaup Season

Written Comments: The State of Wisconsin supported the suspension of the special scaup season. The New York Division of Fish and Wildlife believes the suspension of the special seasons in the Long Island Zone remains unjustified. An organization from New York requested reinstatement of the special scaup season for New York.

Response: The scaup breeding population reached a record low in 1989. Special harvest opportunities are not deemed warranted on a species when the population is at such a low level. The special scaup season will remain suspended.

10. Extra Scaup Option

Written Comments: The New York Division of Fish and Wildlife, the New York State Conservation Council, one local organization and one individual from New York requested reinstatement of the bonus bag limit on scaup. The Wisconsin Bureau of Wildlife Management and the Upper Region Regulations Committee of the Mississippi Flyway Council supported the suspension for bonus scaup.

Response: The extra scaup option remains suspended in 1989–90 for the reasons presented in item 9 above.

11. Mergansers

Public Hearing Comments: Mr. Frank Anderson, representing the Concerned Coastal Sportsmens Association, Mr. John Sawyer, representing the Western Massachusetts Duck Hunters Association, Mr. Jerry Woodmansee, representing the Andover Sportsmens Club, Inc., and Mr. George Reiger, an editor for Field&Stream magazine, recommended liberalizing the season on mergansers along the East Coast to reduce problems of predation on fish. Mr. John Grandy, representing the Humane Society, proposed that mergansers be included in the duck limits in all flyways.

Written Comments: The Wisconsin Bureau of Wildlife Management recommended that regulations for mergansers be the same as last year. The Minnesota Department of Natural Resources supported separate bag limits for mergansers in the conventional option for the regular duck season.

Response: There may be localized problems with mergansers impacting fisheries in the northeast United States. Bona fide problem areas should be

delineated and existing options examined to determine appropriate control methods. The Service doubts that a flywaywide increase in the merganser bag limit is a proper or effective way to address localized depredation on fisheries. Concerning comments that all mergansers should be included in the regular duck bag limit, the Service has no information to suggest that the population or harvest of any merganser warrants additional restrictions at this time. The merganser frameworks are unchanged from 1988–89.

12. Canvasback and Redhead Ducks

Public Hearing Comments: Mr. Doug Inkley, representing the National Wildlife Federation, Mr. Charles Potter, representing the North American Wildlife Foundation, Mr. George Reiger, an editor for Field&Stream magazine, Mr. John Grandy, representing the Humane Society, and Mr. Jim Phillips, a writer and duck hunter, recommended that the Service continue the nationwide closure on canvasbacks that was in place last year.

Written Comments: The Wisconsin Bureau of Wildlife Management supported continuation of seasons and limits on readheads and the closed season on canvasback as occurred last year. A regional representative for the New York State Conservation Council proposed a daily bag limit that would include one canvasback because that species was numerous in his region. One individual from California recommended allowing 1 canvasback in the bag.

Response: Following harvest guidelines in the "1983 Environmental Assessment on Canvasback Hunting," canvasbacks are managed as a "western" and "eastern" population, with 3-year average breeding populations of 140,000 and 360,000 canvasbacks, respectively, for thresholds below which no hunting would be considered. Both populations have been below those thresholds, and seasons on the two populations were not open in any State in 1988. The 1989 count increased the average index in the western population to a level that would allow hunting. Therefore, the Service is allowing a season on canvasbacks in the Pacific Flyway, but with daily bag and possession limits more restrictive than those which had been permitted prior to the season closure last year.

13. Duck Zones

a. Zones

Public Hearing Comments: Mr. Frank Anderson, representing the Concerned Coastal Sportsmen's Association, Mr. John Sawyer, representing the Western Massachusetts Duck Hunters Association, Mr. Jerry Woodmansee, representing the Andover Sportsman's Club, Inc., and Mr. Jim Yoos, representing the New Jersey Waterfowl Association, expressed support for the zone concept.

Written Comments: The Atlantic, Central and Pacific Flyway Councils, the Lower Region Regulations Committee of the Mississippi Flyway Council, the New York Division of Fish and Wildlife, the New York State Conservation Council and 3 local organizations supported the zoning concept. One individual from Texas recommended that Texas be allowed to create a third, new zone for the State. The Idaho Fish and Game Department and 5 individuals requested that the State be zoned into 2 large zones because of markedly different elevational and climatic conditions affecting availability of birds and opportunities for hunters. The Pacific Flyway Council supported the Idaho proposal. The Wisconsin Bureau of Wildlife Management concurred with the Service proposal that the use of zones should be reviewed and further stated their continued use be reconsidered if populations do not show significant improvements.

Response: The Service is currently reviewing the use of zones as a duck harvest management tool. No new zones are permitted prior to completion of this review. The final frameworks include provision for continuation of present zones.

b. Splits

Written Comments: The Pacific Flyway Council recommended retention of the option to split seasons into 2 segments, the Central Flyway Council and the Lower Region Regulations Committee of the Mississippi Flyway Council recommended that States be allowed to split their regular season into 3 segments in lieu of zoning. The Atlantic Flyway Council, the New York Division of Fish and Wildlife, the New York State Conservation Council, and 1 local organization supported the option to split seasons. The Wisconsin Bureau of Wildlife Management concurred with the Service that the use of splits should be reviewed and further stated that their continued use be reconsidered if populations do not show significant improvements. One individual from Wisconsin was against States having the option to split seasons. Three individuals suggested hunting schemes involving mandatory rest days, a form of season splitting, and have been summarized and addressed under heading 2.b.ii. *Rest days.*

Response: The Service recognizes the request for a 3-way split in the Mississippi Flyway and realizes that this is currently an option in the Atlantic and Central Flyways. The Service is reviewing the use of splits as a duck harvest management tool. The final frameworks include provision for continuation of present splits but the Service believes no new splits should be permitted prior to completion of this review.

14. Frameworks for Geese and Brant in the Conterminous United States—Outside Dates, Season Length and Bag Limits

General

Public Hearing Comments: Mr. George Reiger, an editor for Field&Stream magazine, urged caution in using more liberalized goose regulations to offset restrictions on ducks and Mr. John M. Anderson, representing the National Audubon Society, supported continuation of 1988 regulations for geese.

Written Comments: The National Wildlife Federation supported continuation of the goose frameworks.

Atlantic Flyway

Public Hearing Comments: Mr. Frank Anderson, representing the Concerned Coastal Sportsmen's Association, Mr. John Sawyer, representing the Western Massachusetts Duck Hunters Association, and Mr. Jerry Woodmansee, representing the Andover Sportsmen's Club, Inc., recommend that the Service offer a 90-day season in Massachusetts to control growing numbers of nuisance Canada geese.

Written Comments: One individual from New York supported the 90-day Canada goose season with 3 Canada geese daily, one individual from Virginia supported the 2 Canada geese per day limit, and one local organization from Massachusetts suggested increasing the Canada goose season length from 70 to 90 days statewide. One local organization from Massachusetts requested that the Service review the problem of nuisance Canada geese in the State. The Pennsylvania Game Commission recommended a bag increase from 2 to 3 Canada geese in 4 Pennsylvania counties. The Atlantic Flyway Council recommended retaining a 2 goose limit in those Pennsylvania counties, rescinded its recommendation for an increase in the Atlantic brant bag limit, continued to recommend an increase in the greater snow goose bag limit, and supported an expansion of the special Delaware area, establishment of

a special late season in Georgia, and continuation of Connecticut's experimental resident Canada goose season. The Wildlife Management Institute recommended restrictive regulations on Atlantic brant, greater snow geese and Atlantic Canada geese to accelerate population recovery.

An amended recommendation from the Atlantic Flyway Council seeks a reduction in season length from 70 to 60 days in Maryland, Delaware, and the Eastern Shore of Virginia. The Service proposed the Council action be extended to include the Western Shore of Virginia. The State of Virginia and 10 individuals from Virginia expressed opposition to the Service proposal to include the Western Shore of Virginia in the more restrictive regulations developed for the Chesapeake Bay segment of Atlantic Canada geese. The comments indicated that hunting pressure exerted by Virginia hunters was light compared to the Delmarva Peninsula where Canada goose numbers have declined and that the Atlantic Flyway Council recommended the western shore of Virginia be excluded from these restrictions, that winter counts are increasing, that harvests and harvest rates are low and finally that survival is essentially stable on this population segment of Canada geese.

Response: The Service notes the support of 2 individuals pertaining to the goose regulations. The request for a 90-day season in Massachusetts and a review of nuisance geese in that State are best initiated through the State.

The Service concurs with the Atlantic Flyway Councils views in rejecting increased bag limits on Canada geese in 4 western Pennsylvania counties, in rescinding an earlier call for an increased bag limit on Atlantic brant, in an increase of the greater snow goose bag limit from 4 to 5 per day, in initiating a special late Canada goose season on resident geese in Georgia, and limited expansion of the special snow goose area in Delaware. In addition, the Service supports the action of the Flyway Council to reduce the season length on the Chesapeake Bay segment of Atlantic Canada geese in response to problems involving low recruitment since 1985. However, the Service does not support splitting off the Western Shore of Virginia from the Chesapeake Bay population. In Virginia, data from neck collar studies shows that a considerable exchange occurs between birds from the Western Shore of Virginia, the Delmarva Peninsula, and western Maryland. Also, survival rate information shows that geese marked in Virginia and Maryland both show declining survival rates. The Service view is that the Chesapeake Bay population is well defined by the neck collaring study and the evidence supports a unified management of this flock. The regulations frameworks in this document reflect this view.

Mississippi Flyway

Written Comments: The Upper Region Regulations Committee of the Mississippi Flyway Council and the State of Wisconsin endorsed a change in the boundary of Iowa's Southwest Goose Zone. The Upper Region Regulations Committee also endorsed a request from the Indiana Department of Natural Resources to split its goose season within existing zones into 3 segments. The Arkansas Game and Fish Commission requested that the State be permitted to have a Canada goose season again in 1989–90. The Wisconsin Bureau of Wildlife Management supported recommendations from the Mississippi Flyway Council's Upper Region Regulations Committee for increased harvest of Mississippi Valley Population (MVP) Canada geese in 1989. The Wildlife Management Institute recommended the continuation of restrictive regulations for Mid-Continent white-fronted geese. One individual supported more liberal bag limits for geese. The Lower Region Regulations Committee of the Mississippi Flyway Council recommended a snow goose season of 80 days with a daily bag limit of 7, but supported continuation of frameworks for white-fronted geese.

Response: The final frameworks in this document include provision for a Canada goose season in Arkansas and the more liberal regulations for MVP Canada geese recommended by the Mississippi Flyway Council's Regulations Committees. The boundary change in Iowa's Southwest Goose Zone is approved. Regarding Indiana's request for 3-way splits in its goose seasons within existing zones, the Service previously has permitted 3-way splits for both ducks and geese only in lieu of zoning in the Atlantic and Central Flyways, and believes this policy is still appropriate until the review of zoning and split season harvest strategies is completed. Therefore, splits within zones continue to be limited to 2 segments.

Central Flyway

Written Comments: The Central Flyway Council recommendations on season length and dates, bag limits, and other aspects of goose frameworks for dark and light geese generally supported continuation of frameworks offered in 1988, with minor changes in "floating framework" dates. Two changes were recommended regarding light geese; one was to increase the season length in the eastern tier of States to 100 days from the 86 days offered in 1988—the large size and continuing upward trend of the Mid-Continent Snow Goose Population was cited as the reason for this change. The second was that the experimental light goose season in the Middle Rio Grande Valley of New Mexico be made operational. That experimental season, initiated in 1986, included an extended season of 107 days and a possession limit of 20 light geese, compared to 95 days and possession limit of 10 in the remainder of the State. The recommendation for operational status would continue the 107 day season but would drop the possession limit to 10. The Wildlife Management Institute recommended that actions be taken to increase the Western Segment of the Mid-Continent White-fronted Goose Population and that restrictive regulations be continued to prevent further declines in the Eastern Segment Mid-Continent White-fronted Goose Population.

Response: The season length for light geese in the eastern tier of Central Flyway States will be increased to 100 days and the experimental light goose season in New Mexico will be operational, as proposed by the Central Flyway Council. Light goose populations in both the eastern and western tier States of the Central Flyway are healthy and growing and should not be adversely affected by these actions. With regard to recommendations of the Wildlife Management Institute for actions to recover Western Mid-Continent White-fronted Geese, the Service will take no specific action this year but has requested the Central and Mississippi Flyway Councils to review the situation with both the Western and Eastern Segments of the Mid-Continent White-fronted Goose Population and develop appropriate recommendations. The Eastern Segment has been increasing in recent years while the Western Segment has declined, according to current surveys. These two populations may not be as separate as once believed and the Service, in cooperation with the Flyway Councils, desires to intensify efforts to better understand the relationship and status of these two segments. No liberalizations are planned for either segment this year.

Pacific Flyway

Public Hearing Comments: Mr. Doug Inkley, representing the National Wildlife Federation, recommended

closing the season on cackling Canada geese and Pacific brant in the Pacific Flyway.

Written Comments: The Pacific Flyway Council supported continuation of limited seasons for brant in California, Oregon, and Washington, restrictive seasons for white-fronted geese, flywaywide closures for cackling Canada geese, and continuation of white goose seasons. They further recommended that the ending date for Canada geese in Colorado, Montana, most of Utah, and Wyoming, be moved from the first to the second Sunday in January, and that the season length be increased from 86 to 88 days in Arizona, California, Colorado, New Mexico, and Utah, to accommodate weekend hunting with split seasons. The Wildlife Management Institute recommended taking such actions as necessary to accelerate recovery of four populations of Alaska nesting geese that winter in the Pacific Flyway. The National Wildlife Federation supported the cackling Canada goose closures in California, Oregon, and Washington. One individual from California requested a 21-day season with a bag limit increase from 1 to 2 white-fronted geese for the Klamath Basin. The Pacific Flyway Council and the California Fish and Game Department recommended lifting restrictions on hunting large Canada geese in the Sacramento and San Joaquin goose closure zones. Another individual from California questioned the need for these restrictive areas.

Response: Consultation with the Division of Endangered Species and Habitat Conservation regarding proposed changes in frameworks that would have allowed the taking of certain kinds of Canada geese in two closed areas of California resulted in continuation of those closures. This was deemed advisable to minimize the incidental take of Aleutian Canada geese, an endangered species.

In regard to comments questioning boundary location, it is noted that the boundaries used to delineate the California Canada goose closed areas were based primarily on Aleutian Canada goose distribution and secondarily on recognizability of those boundaries for enforcement purposes. The Service acknowledges the inequities perceived by individuals having property along the boundary, where those within the closed area cannot hunt Canada geese while those on adjacent properties outside can. However, the geese need protection and a boundary must be established.

While the Service recognizes that many hunters travel considerable distance to hunt waterfowl in the Northeastern Zone of California and that hunters contribute to the local economy, the welfare of the resource must be the determining factor in judging the appropriateness of regulations. The proposed and final frameworks both reflect a continued restrictive white-fronted goose season for the Northeastern Zone. While this population of whitefronts has shown improvements, it remains well below objective levels and below levels where liberalization throughout the flyway would be warranted.

The Service believes the combination of closures and restrictive frameworks is appropriate for those populations of Alaska nesting geese that have undergone declines.

15. Tundra Swans

Public Hearing Comments: Mr. Doug Inkley, representing the National Wildlife Federation, Mr. Gary Myers, representing The Wildlife Society, and Mr. John M. Anderson, representing the National Audubon Society, supported the continuation of hunting opportunity for tundra swans.

Written Comments: The States of Montana and Nevada offered correction to an earlier document. The Atlantic and Pacific Flyway Councils, and the National Wildlife Federation supported the proposal for tundra swan hunts. The Wildlife Information Center, Inc. (Center), recommended a ban on the hunting of tundra swans. The Center believes there are negative impacts to behavior and ecology of swans as a result of hunting and that alternative methods should be developed to reduce crop damage.

Response: Tundra swans currently exceed objective levels. Management plans for both the eastern and western populations, including harvest strategies, have been developed to give adequate protection to the species. The Service notes the concern by some persons regarding tundra swan hunting but finds no biological reason to prohibit swan hunting. Therefore, the Service is continuing to approve carefully controlled tundra swan hunts in certain identified States.

17. Coots

Written Comments: The California Department of Fish and Game requested that frameworks for this species be separated from the duck frameworks to provide additional hunting opportunity.

Response: The Service notes that, nationally, coots and ducks are, and have been, regulated together, i.e., coot seasons are the same as regular duck seasons. The Service intends to continue to regulate coots and ducks together.

20. Common Snipe

Written Comments: The California Department of Fish and Game requested that frameworks for this species be separated from the duck frameworks to provide additional hunting opportunity.

Response: The Service concurs with the California request. The frameworks contained herein provide for snipe seasons to be independent of duck seasons as they are in other flyways.

Nontoxic Shot Regulations

In the April 13, 1989, **Federal Register** (54 FR 14814), the Service published a final rule describing zones in which lead shot is prohibited for hunting waterfowl, coots and certain other species in the 1989–90 season. Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 89–14)"; filed with EPA on June 9, 1988. Notice of Availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341). However, this programmatic document does not prescribe year-specific regulations, those are developed annually. The annual regulations and options were considered in the Environmental Assessment, *Waterfowl Hunting Regulations for 1989.*

Endangered Species Act Consideration

On June 22, 1989, the Division of Endangered Species and Habitat Conservation concluded that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

Hunting regulations are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats.

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for inspection in the Office of Endangered Species and

Habitat Conservation and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 634, Arlington Square, 4401 North Fairfax Drive, Arlington, Virginia.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

In the **Federal Register** dated March 27, 1989 (54 FR 12534), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 634–Arlington Square, Department of the Interior, Washington, DC 20240. These proposed regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the **Federal Register** dated August 11, 1989 (54 FR 32975).

Authorship

The primary author of this proposed rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Byron K. Williams, Acting Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed late hunting season rulemakings were published on August 16, 1989, the Service established what it believed was the longest period possible for public comment. In doing this the Service recognized that at the close of the comment period, time would be of the essence. That is, if there was a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select season dates, shooting hours and limits; to communicate these selections to the Service; and to establish and publicize the necessary regulations and procedures that implement their decisions.

Therefore, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 et seq.), prescribes final frameworks setting for the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of the season and option selections from State officials, the Service will publish in the **Federal Register** a final rulemaking amending 50 CFR part 20 (§§ 20.104 through 20.107 and § 20.109) to reflect seasons, limits and shooting hours for the conterminous United States for the 1989–90 season.

The Service therefore finds "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1989–90 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 701–718h); the Fish and Wildlife Improvement Act of 1978 (92 Stat. 3112; 16 U.S.C. 712); and the Alaska Game Act of 1925 (43 Stat. 739; as amended, 54 Stat. 1103–04).

Proposed Regulations Frameworks for 1989–90 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved proposed frameworks for season lengths, shooting hours, bag and possession limits and outside dates within which States may select seasons for hunting waterfowl and coots. Frameworks are summarized below.

General

Split Season: States in all Flyways may split their season for ducks, geese or brant into two segments. States in the Atlantic and Central Flyways may, in lieu of zoning, split their season for ducks or geese into three segments. Exceptions are noted in appropriate sections.

Shooting Hours: From one-half hour before sunrise to sunset daily, for all species and seasons, including falconry seasons.

Deferred Season Selections: States that did not select rail, woodcock, snipe, sandhill cranes, common moorhens and purple gallinules and sea duck seasons in July should do so at the time they make their waterfowl selections. Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

Atlantic Flyway

The Atlantic Flyway includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and West Virginia.

Ducks, Coots and Mergansers

Hunting Seasons and Duck Limits:

Outside Dates: Between October 7, 1989, and January 7, 1990.

Hunting Season: Not more than 30 days.

Canvasbacks: The season on canvasbacks is closed.

Harlequin Ducks: The season on harlequin ducks is closed.

Duck Limits: The daily bag limit is 3 and may include not more than 1 hen mallard, 2 wood ducks, 2 redheads, 1 black duck, 1 mottled duck, 1 pintail, and 1 fulvous tree duck. The possession limit is twice the daily bag limit.

Merganser Limits: Throughout the Flyway the daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

Coot Limits: Throughout the Flyway daily bag and possession limits of coots are 15 and 30, respectively.

Zoning:

New York: New York may, for the *Long Island Zone,* select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain zone) may be divided into three zones (West, North, South) for the purpose of setting separate duck, coot and merganser seasons. A 2-segment split season may be selected in each zone.

The *West Zone* is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along

the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The *North* and *South Zones* are bordered on the west by the boundary described above and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and State Route 49 and extending easterly along State Route 49 to its junction with State Route 365 at Rome, then easterly along State Route 365 to its junction with State Route 28 at Trenton, then easterly along State Route 28 to its junction with State Route 29 at Middleville, then easterly along State Route 29 to its intersection with Interstate Highway 87 at Soratoga Springs, then northerly along Interstate Highway 87 to its junction with State Route 9, then northerly along State Route 9 to its junction with State Route 149, then easterly along State Route 149 to its junction with State Route 4 at Fort Ann, then northerly along State Route 4 to its intersection with the New York/Vermont boundary.

Connecticut may be divided into two zones as follows:

a. *North Zone*—That portion of the State north of interstate 95.

b. *South Zone*—That portion of the State south of Interstate 95.

Maine may be divided into two zones as follows:

a. *North Zone*—Game Management Zones 1 through 5.

b. *South Zone*—Game Management Zones 6 through 8.

New Hampshire

Coastal Zone—That portion of the State east of a boundary formed by State Highway 4 beginning at the Maine-New Hampshire line in Rollinsford west to the city of Dover, south to the intersection of State Highway 108, south along State Highway 108 through Madbury, Durham and Newmarket to the junction of State Highway 85 in Newfields, south to State Highway 101 in Exeter, east to State Highway 51 (Exeter-Hampton Expressway), east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south along Interstate 95 to the Massachusetts line.

Inland Zone—That portion of the State north and west of the above boundary.

West Virginia may be divided into two zones as follows:

a. *Allegheny Mountain Upland Zone*—The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. 50; follows U.S. Route 50 to the intersection with State Route 93; follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg; follows State Route 28 south to Minnehaha Springs; then follows State Route 39 west to U.S. Route 219; and follows U.S. Route 219 south to the intersection of Interstate 64. The southern boundary follows I–64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows: Route 19 north to the intersection of I–79, and follows I–79 north to the intersection of U.S. Route 48. The northern boundary follows U.S. Route 48 east to the Maryland State line and the State line to the point of beginning.

b. Remainder of the State—That portion outside the above boundaries.

Zoning Experiments:

Vermont may continue a Lake Champlain Zone. The Lake Champlain Zone of New York must follow the waterfowl season, daily bag and possession limits, and shooting hours selected by Vermont. *Massachusetts, New Jersey,* and *Pennsylvania,* may continue zoning experiments now in progress as shown in the sections that follow. *Massachusetts* and *New Jersey* may be divided into three zones, *Pennsylvania* into four zones and *Vermont* into two zones all on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. A two-segment split season without penalty may be selected. The basic daily bag limit of ducks in each zone and the restrictions applicable to the regular season for the Flyway also apply.

Zone Definitions

Massachusetts

Western Zone—That portion of the State west of a line extending from the Vermont line at Interstate 91, south to Route 9, west on Route 9 to Route 10, south on Route 10 to Route 202, south on Route 202 to the Connecticut line.

Central Zone—That portion of the State east of the Western Zone and west of a line extending from the New Hampshire line at Interstate 95 south to Route 1, south on Route 1 to I–93, south on I–93 to Route 3, south on Route 3 to Route 6, west on Route 6 to Route 28, west on Route 28 to I–195, west to the Rhode Island line. *EXCEPT* the waters, and the lands 150 yards along the high-water mark, of the Assonit River to the Route 24 bridge, and the Taunton River to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone—That portion of the State east and south of the Central Zone.

New Jersey

Coastal Zone—That portion of New Jersey seaward of a continuous line beginning at the New York State boundary line in Raritan Bay; then west along the New York boundary line to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with the Garden State Parkway; then south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware boundary in Delaware Bay.

North Zone—That portion of New Jersey west of the Coastal Zone and north of a boundary formed by Route 70 beginning at the Garden State Parkway west to the New Jersey Turnpike, north on the turnpike to Route 206, north on Route 206 to Route 1, Trenton, west on Route 1 to the Pennsylvania State boundary in the Delaware River.

South Zone—That portion of New Jersey not within the North Zone or the Coastal Zone.

Pennsylvania

Lake Erie Zone—The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

North Zone—That portion of the State north of I–80 from the New Jersey line west to the junction of State Route 147; then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I–80, then west on I–80 to its junctions with the Allegheny River, and then north along but not including the Allegheny River to the New York border.

Northwest Zone—That portion of the State bounded on the north by the Lake Erie Zone and the New York line, on the east by an including the Allegheny River, on the south by Interstate Highway I–80, and on the west by the Ohio line.

South Zone—The remaining portion of the State.

Vermont

Lake Champlain Zone—Includes the United States portion of Lake Champlain and those portions of New York and Vermont which includes that part of New York lying east and north of boundary running south from the Canadian border along New York Route 9B to New York Route 9 south of Champlain, New York; New York Route 9 to New York Route 22 south of Keeseville; along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22; along New York Route 22 to

U.S. Highway 4 at Whitehall; and along U.S. Highway 4 to the Vermont border. From the New York border at U.S. Highway 4, along U.S. Highway 4 to Vermont Route 22A at Fair Haven; Route 22A to U.S. Highway 7 at Vergennes; U.S. Highway 7 to the Canadian border.

Interior Vermont Zone—The remaining portion of the State.

Sea Ducks: The daily bag and possession limit for sea ducks in special sea duck areas is in addition to the limits applying to other ducks during the regular duck season. In all areas outside of special sea duck areas, sea ducks are included in the regular duck season daily bag and possession limits.

Canada Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1989, and January 20, 1990, Maine, New Hampshire, Vermont, Massachusetts, Pennsylvania, and West Virginia may select 70-day seasons for Canada geese with a daily bag and possession limit of 3 and 6 geese, respectively, except in Pennsylvania Counties of Erie, Mercer, Butler, and Crawford, where the daily bag and possession limits are 2 and 4, respectively. In Maryland, Delaware, and Virginia (except Back Bay) the Canada goose season may be 60 days with an opening date of October 31, 1989, and a closing date of January 20, 1990, with 2 geese daily and 4 in possession. In New York (including Long Island), New Jersey, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on I–81 to Route 443, east on 443 to Leighton, then east via 208 to Stroudsburg, then east on I–80 to the New Jersey line, the Canada goose season length may be 90 days with the opening framework date of October 1, 1989, and the closing framework date extended to January 31, 1990. In addition, that portion of the Susquenhanna River from Harrisburg north to the confluence of the west and north branches at Northumberland, including a 25-yard zone of land adjacent to the waters of the river, is included in the 90-day zone. The daily bag and possession limits within this area will be 1 and 2, respectively through October 15, 1989, and 3 and 6, respectively thereafter. In Rhode Island and Connecticut (North Zone) season length will be 90 days between October 1, 1989, and January 31, 1990, with a daily bag and possession limit of 3 and 6, respectively. In the South Zone of Connecticut (that portion south of Interstate 95), the Canada goose season length may be 90 days with the closing framework date extended to February 5, 1990. The daily bag limit and possession limit will be 3 and 6, respectively, through January 14, and 5 and 10, respectively from January 15 to February 5, 1990. This season in the South Zone of Connecticut is experimental. The Back Bay of Virginia, North Carolina (that portion south of Interstate Highway 95), and South Carolina may select an 11-day season for Canada geese within a January 20–30, 1990, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively. In the Coastal Zone of Massachusetts, a special resident Canada goose season may be held during January 21, 1990, to February 5, 1990; the daily bag and possession limits are 5 and 10, respectively. In Georgia, on specific areas (as described in State regulations), a special resident Canada goose season may be held between January 13 and January 20, 1990, with a limit of 1 per hunter per season. Closures on Canada geese: The season for Canada geese is closed in Florida.

Snow Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1989, and January 31, 1990, States in the Atlantic Flyway may select a 90-day season for snow geese (including blue geese); the daily bag and possession limits are 5 and 10, respectively. Between October 16, 1989, and October 28, 1989, a special snow goose season may be held in Delaware on Bombay Hook National Wildlife Refuge, Little Creek GMA, and immediate area (as described in State regulations) at the discretion of the Refuge Manager. Daily bay and possession limits are 5 and 10, respectively. This season is in addition to the 90-day regular season.

Atlantic Brant

Outside Dates, Season Lengths, and Limits: Between October 1, 1989, and January 20, 1990, States in the Atlantic Flyway may select a 50-day season for Atlantic brant; the daily bag and possession limits and 2 and 4 brant, respectively.

Tundra Swans

In New Jersey, Virginia, and North Carolina an experimental season for tundra swans may be selected with 200, 600 and 6,000 permits, respectively, subject to the following conditions: (a) The season may be 90 days and must run concurrently with the snow goose season; (b) the State agency must issue permits and obtain harvest and hunter participation data; and (c) each permittee is authorized to take one tundra swan per season.

Mississippi Flyway

The Mississippi Flyway includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Ducks, Coots, and Mergansers

Outside Dates: Between October 7, 1989, and January 7, 1990, in all States.

Hunting Season: Not more than 30 days.

Canvasbacks: The season on canvasbacks is closed.

Limits: The daily bag limit of ducks is 3, and may include no more than 2 mallards (no more than 1 of which may be a female), 1 black duck, 1 pintail, 2 wood ducks, and 1 readhead. The possession limit is twice the daily bag limit.

Merganser Limits: The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is twice the daily bag limit.

Coot Limits: The daily bag and possession limits are 15 and 30, respectively.

Point-System Option: As an alternative to conventional bag limits for ducks, a 30-day season with point-system bag and possession limits may be selected within the framework dates prescribed. Point values for species and sexes taken are as follows: the female mallard, pintail, black duck, redhead, and hooded merganser count 100 points each; the male mallard and wood duck count 50 points each; all other species of ducks and mergansers count 35 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds that legally could have been taken in 2 days.

Pymatuning Reservoir Area, Ohio: The waterfowl seasons, limits and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Lower St. Francis River Area, Arkansas and Missouri: The waterfowl seasons, limits, and shooting hours in the lower St. Francis River area of Arkansas and Missouri shall be same as those selected by Arkansas. The *lower*

St. Francis River area is defined as that part of the St. Francis River that is south of U.S. Highway 62 that is the boundary between Arkansas and Missouri and all sloughs and chutes (but not tributaries) connected to it.

Zoning: Alabama, Illinois, Indiana, Iowa, Louisiana, Michigan, Missouri, Ohio, Tennessee, and *Wisconsin* may select hunting seasons for ducks, coots and mergansers by zones described as follows:

Alabama: South Zone—Mobile and Baldwin Counties. North Zone—The remainder of Alabama. The season in the South Zone may be split into two segments.

Illinois: North Zone—That portion of the State north of a line running east from the Iowa border along Illinois Highway 92 to I–280, east along I–280 to I–80, then east along I–80 to the Indiana border. Central Zone—That portion of the State between the North and South Zone boundaries. South Zone—That portion of the State south of a line running east from the Missouri border along the Modoc Ferry route to Randolph County Highway 12, north along Highway 12 to Illinois Highway 3, north along Illinois Highway 3 to Illinois Highway 159, north along Illinois Highway 159 to Illinois Highway 161, east along Illinois Highway 161 to Illinois Highway 4, north along Illinois Highway 4 to I–70, then east along I–70 to the Indiana border.

Indiana: North Zone: That portion of the State north of a line extending east from the Illinois border along State Highway 18 to U.S. Highway 31, then north along U.S. 31 to U.S. Highway 24, then east along U.S. 24 to Huntington, then southeast along U.S. Highway 224 to the Ohio border. Ohio River Zone: That portion of Indiana south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, then east along State Highway 62 to State Highway 56, then east along State Highway 56 to Vevay, then on State Highway 156 along the Ohio River to North Landing, then north along State Highway 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border. South Zone: That portion of the State between the North and Ohio River Zone boundaries. The season in each zone may be split into two segments.

Iowa: North Zone—That portion of Iowa north of a line running west from the Illinois border along I–80 to U.S. 59, north along U.S. 59 to State Highway 37, northwest along State Highway 37 to State Highway 175, then west along State Highway 175 to the Nebraska border. South Zone—the remainder of State.

Louisiana: West Zone—That portion of the State west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3, then south along Louisiana Highway 3 to Bossier City, east along Interstate 20 to Minden, south along Louisiana Highway 7 to Ringgold, east along Louisiana Highway 4 to Jonesboro, south along U.S. Highway 167 to Lafayette, southeast along U.S. Highway 90 to Houma, south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass. East Zone—The remainder of Louisiana. The season in each zone may be split into two segments.

Michigan: North Zone—The Upper Peninsula. South Zone—That portion of the State south of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and east and south along the south shore of, Stony Creek to Webster Road, east and south on Webster Road to Stony Lake Road, east on Stony Lake and Garfield Roads to M–20, east on M–20 to U.S.–10B.R. in the city of Midland, east on U.S.–10B.R. to U.S.–10, east on U.S.–10 and M–25 to the Saginaw River, downstream along the thread of the Saginaw River to Saginaw Bay, then on a northeasterly line, passing one-half mile north of the Corps of Engineers confined disposal island offshore of the Carn powerplant, to a point one mile north of the Charity islands, then continuing northeasterly to the Ontario border in Lake Huron. Middle Zone—The remainder of the State. Michigan may split its season in each zone into two segments.

Missouri: North Zone—That portion of Missouri north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S. 65 to State Highway 32, east along State Highway 32 to State Highway 72, east along State Highway 72 to State Highway 21, south along State Highway 21 to U.S. Highway 60, east along U.S. 60 to State Highway 51, south along State Highway 51 to State Highway 53, south along State Highway 53 to U.S. Highway 62, east along U.S. 62 to I–55, north along I–55 to State Highway 34, then east along State Highway 34 to the Illinois border. South Zone—The remainder of Missouri. Missouri may split its season in each zone into two segments.

Ohio: North Zone—The counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingam, Guernsey, Harrison and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13. Ohio River Zone—The counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia and Meigs. South Zone—That portion of the State between the North and Ohio River Zone boundaries. Ohio may split its season in each zone into two segments.

Tennessee: Reelfoot Zone—Lake and Obion Counties, or a designated portion of that area. State Zone—The remainder of Tennessee. Seasons may be split into two segments in each zone.

Wisconsin: North Zone—That portion of the State north of a line extending northerly from the Minnesota border along the center line of the Chippewa River to State Highway 35, east along State Highway 35 to State Highway 25, north along State Highway 25 to U.S. Highway 10, east along U.S. Highway 10 to its junction with the Manitowoc Harbor in the city of Manitowoc, then easterly to the eastern State boundary in Lake Michigan. South Zone—The remainder of Wisconsin. The season in the South Zone may be split into two segments.

Geese

Definition: For the purpose of hunting regulations listed below, the term "geese" also includes brant.

Note: The various zones and areas identified in this section are described in the respective States' regulations.

Outside Dates, Season Lengths and Limits: Between September 30, 1989, and January 21, 1990 (January 31 in Kentucky, Arkansas, Tennessee, Mississippi, and Alabama), States may select seasons for geese not to exceed 70 days for Canada and white-fronted geese and 80 days for snow (including blue) geese. The daily bag limit is 7 geese, to include no more than 3 Canada and 2 white-fronted geese. The possession limit is 14 geese, to include no more than 6 Canada and 4 white-fronted geese. Specific regulations for Canada geese and exceptions to the above general provisions are shown below by State.

Outside Dates and Limits on Snow and White-fronted Geese in Louisiana: Between September 30, 1989, and February 14, 1990, Louisiana may hold 80-day seasons on snow (including blue) geese and 70-day seasons on white-fronted geese by zones established for duck hunting seasons. Daily bag and possession limits are as described above.

Minnesota. In the:

(a) West Central Goose Zone—the season for Canada geese may extend for 30 days. In the Lac Qui Parle Goose Zone the season will close after 30 days or when 4,000 birds have been harvested, whichever occurs first. Throughout the 5-county area, limits are 1 Canada goose daily and 2 in possession.

(b) Southeast Goose Zone—The season for Canada geese may extend for 70 consecutive days. Limits are 2 Canada geese daily and 4 in possession. In selected areas of the Metro Goose Management Block and in Olmsted County, experimental 10-day late seasons may be held during December to harvest Giant Canada geese. During these seasons, limits are 2 Canada geese daily and 4 in possession.

(c) Remainder of the State—The season for Canada geese may extend for 40 days. Limits are 1 Canada goose daily and 2 in possession.

Iowa: The season may extend for 45 consecutive days. Limits are 2 Canada geese daily and 4 in possession. The season for geese in the Southwest Goose Zone may be held at a different time than the season in the remainder of the State.

Missouri: In the:

(a) Swan Lake Zone—The season for Canada geese closes after 40 days or when 10,000 birds have been harvested, whichever occurs first. Limits are 2 Canada geese daily and 4 in possession.

(b) Southeast Zone—A 50-day season on Canada geese may be selected, with limits of 2 Canada geese daily and 4 in possession.

(c) Remainder of the State—The season for Canada geese may extend for 40 days in the respective duck hunting zones. Limits are 1 Canada goose daily and 4 in possession.

Wisconsin: The framework opening date for all geese is September 23. The total harvest of Canada geese in the State will be limited to 93,700 birds. In the:

(a) Horicon Zone—The harvest of Canada geese is limited to 62,000 birds. The season may not exceed 76 days. All Canada geese harvested must be tagged and the total number of tags issued will be limited so that the quota of 62,000 birds is not exceeded. Limits are 2 Canada geese daily and 4 in possession.

(b) Theresa Zone—The harvest of Canada geese is limited to 5,000 birds. The season may not exceed 70 days. Limits are 1 Canada goose per permittee per 7-day period and 4 for the entire season.

(c) Pine Island Zone—The harvest of Canada geese is limited to 1,700 birds. The season may not exceed 70 days. All Canada geese harvested must be tagged. Limits are 2 Canada geese daily and 4 for the entire season.

(d) Collins Zone—The harvest of Canada geese is limited to 2,700 birds. The season may not exceed 70 days. All Canada geese harvested must be tagged. Limits are 2 Canada geese daily and 4 in the entire season.

(e) Exterior Zone—The harvest of Canada geese is limited to 22,300 birds. The season may not exceed 70 days, except as noted below. Limits are 1 Canada goose daily and 2 in possession through October 31, and 2 daily and 4 in possession thereafter, except as noted below. In the Mississippi River Subzone, the season for Canada geese may extend for 70 days. Limits are 1 Canada goose daily and 2 in possession through October 31, and 2 daily and 4 in possession thereafter. In the Brown County Subzone, a special late season to control local populations of giant Canada geese may be held during December 1–31. The daily bag and possession limits during this season are 3 and 6 birds, respectively, In the Rock Prairie Subzone, a special late season to harvest giant Canada geese may be held between November 5 and December 10. During this late season, limits are 1 Canada goose daily and 2 in possession.

In Wisconsin, the progress of the Canada goose harvest must be monitored in the exterior zone, and that zone's season closed, if necessary, to insure that the harvest does not exceed the quota stated above.

Illinois: The total harvest of Canada geese in the State will be limited to 103,500 birds. In the:

(a) Southern Illinois Quota Zone—The season for Canada geese will close after 56 days or when 51,750 birds have been harvested, whichever occurs first. Limits are 2 Canada geese daily and 10 in possessin through December 31, and 3 daily and 10 in possession thereafter.

(b) Rend Lake Quota Zone—The season for Canada geese will close after 56 days or when 15,500 birds have been harvested, whichever occurs first. Limits are 2 Canada geese daily and 10 in possession through December 31, and 3 daily and 10 in possession thereafter.

(c) Tri-County Zone—The season for Canada geese may not exceed 50 days. Limits are 2 Canada geese daily and 10 in possession.

(d) Remainder of State—Seasons for Canada geese up to 60 days may be selected by zones established for duck hunting seasons. Limits are 2 Canada geese daily and 10 in possession.

Michigan: The total harvest of Canada geese in the State will be limited to 89,400 birds. In the:

(a) North Zone:

(1) West of Forest Highway 13—The framework opening date for all geese is September 23 and the season for Canada geese may extend for 53 days, except in the Superior Counties Goose Management Area (GMA), whee the season will close after 53 days or when 11,000 birds have been harvested, whichever occurs first. Limits are 3 Canada geese daily and 6 in possession.

(2) Remainder of North Zone—The framework opening for all geese is September 26 and the season for Canada geese may extend for 50 days. Limits are 2 Canada geese daily and 4 in possession.

(b) Middle Zone—The season for Canada geese may extend for 50 days. Limits are 2 Canada geese daily and 4 in possession through November 22, and 3 daily and 6 in possession thereafter.

(c) South Zone:

(1) Allegan County GMA—The season for Canada geese will close after 55 days or when 5,500 birds have been harvested, whichever occurs first. Limits are 1 Canada geese daily and 2 in possession.

(2) Muskegon Wastewater GMA—The season for Canada geese will close after 50 days or when 700 birds have been harvested, whichever occurs first. Limits is 2 Canada geese daily and 4 in possession.

(3) Saginaw County GMA—The season for Canada geese will close after 50 days or when 4,500 birds have been harvested, whichever occurs first. Limits are 2 Canada geese daily and 4 in possession.

(4) Fish Point GMA—The season for Canada geese will close after 50 days or when 2,500 birds have been harvested, whichever occurs first. Limits are 2 Canada geese daily and 4 in possession.

(5) Remainder of South Zone:

(i) West of U.S. Highway 27/127—The season for Canada geese may extend for 50 days. Limits are 2 Canada geese daily and 4 in possession.

(ii) East of U.S. Highway 27/127—The season for Canada geese may extend for 40 days. Limits are 2 Canada geese daily and 4 in possession.

(d) Southern Michigan GAM—A late Canada goose season of up to 30 days may be held between January 6 and February 4, 1990. Limits are 2 Canada geese daily and 4 in possession.

Ohio: Canada goose limits are 2 daily and 4 in possession.

Indiana: The total harvest of Canada geese in the State will be limited to 39,700 birds. In:

(a) Posey County—The season for Canada geese will close after 70 days or when 11,500 birds have been harvested, whichever occurs first. Limits are 3

Canada geese daily and 6 in possession. The season may extend to Janaury 31, 1990.

(b) Remainder of the State—The season for Canada geese may extend for 70 days. Limits are 2 Canada geese daily and 4 in possession.

Kentucky: In the:

(a) Western Zone—The season for Canada geese may extend for 70 days, and the harvest will be limited to 31,000 birds. Of the 31,000-bird quota, 20,000 birds will be allocated to the Ballard Reporting Area and 6,000 birds will be allocated to the Henderson/Union Reporting Area. If the quota in either reporting area is reached prior to completion of the 70-day season, the season in that reporting area will be closed. If this occurs, the season in those counties and portions of counties outside of, but associated with, the respective subzone (listed in State regulations) may continue for an additional 7 days, not to exceed a total of 70 days. The season in Fulton County may extend to February 15, 1990. Limits are 3 Canada geese daily and 6 in possession.

(b) Remainder of the State—The season may extend for 70 days. Limits are 2 Canada geese daily and 4 in possession.

Tennessee: In the:

(a) Northwest Tennessee Zone—The season for Canada geese may extend for 70 days, and the harvest will be limited to 12,400 birds. Of the 12,400 bird quota, 8,600 birds will be allocated to the Reelfoot Quota Zone. If the quota in the Reelfoot Quota Zone is reached prior to completion of the 70-day season, the season in the quota zone will be closed. If this occurs, the season in the remainder of the Northwest Tennessee Zone may continue for an additional 7 days, not to exceed a total of 70 days. The season may extend to February 15, 1990. Limits are 3 Canada geese daily and 6 in possession.

(b) Southwest Tennessee Zone—The season for Canada geese may extend for 30 days, and the harvest will be limited to 700 birds. Limits are 2 Canada geese daily and 4 in possession.

(c) Remainder of the State—The season for Canada geese may extend for 70 days. Limits are 2 Canada geese daily and 4 in possession.

Arkansas: The season for Canada geese may extend for 70 days. Limits are 3 Canada geese daily and 6 in possession.

Louisiana: The season for Canada geese is closed.

Mississippi: The season for Canada geese may extend for 70 days. Limits are 3 Canada geese daily and 6 in possession.

Alabama: Canada geese limits are 2 daily and 4 in possession.

Missouri, Illinois, Indiana, Kentucky and Tennessee Quota Zone Closures: When it has been determined that the quota of Canada geese allotted to the Southern Illinois Quota Zone, the Rend Lake Quota Zone in Illinois, the Swan Lake Zone in Missouri, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky and the Reelfoot Subzone in Tennessee will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

Shipping Restriction: In Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton and Carlisle, geese may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

Central Flyway

The Central Flyway includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the entire Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas and Wyoming (east of the Continental Divide).

Ducks (including mergansers) and Coots

Outside Dates: October 7, 1989, through January 7, 1990.

Canvasbacks: The season on canvasbacks is closed.

Hunting Season: Seasons in the Low Plains Unit may include no more than 39 days. Seasons in the High Plains Mallard Management Unit may include no more than 51 days, provided that the last 12 days may start no earlier than December 9, 1989. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations.

States may split their seasons into 2 or, in lieu of zoning, 3 segments.

Daily Bag and Possession Limits: The daily bag limit is 3 ducks, including no more than 2 mallards, no more than 1 of which may be a female, 1 mottled duck, 1 pintail, 1 redhead, 1 hooded merganser, and 2 wood ducks. The possession limit is twice the daily bag limit. Daily bag and possession limits for coots are 15 and 30, respectively.

States in the Central Flyway may, as an alternative to the conventional bag limit for ducks, select a point system of bag and possession limits. Point categories will be as follows:

100 points—female mallard, pintail, redhead, hooded merganser, mottled duck

50 points—male mallard, wood duck

35 points—All other ducks and mergansers

Under the point system, the daily bag limit is reached when the point value of the last bird taken, added to the sum of point values of all other ducks already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of ducks that legally could have been taken in 2 days.

Zoning: Duck and coot hunting seasons may be selected independently in existing zones as described in the following States:

Montana (Central Flyway portion):

Experimental Zone 1. The counties of Bighorn, Blaine, Carbon, Daniels, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland and Yellowstone.

Experimental Zone 2. The counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure and Wibaux.

Nebraska (Low Plains portion):

Zone 1. Keya Paha County east of U.S. Highway 183 and all of Boyd County includng the adjacent waters of the Niobrara River.

Zone 2. The area bounded by designated highways and political boundaries starting on U.S. 73 at the State Line near Falls City; north to N–67; north through Nemaha to U.S. 73–75; north to U.S. 34; west to the Alvo Road; north to U.S. 6; northeast to N–63; north and west to U.S. 77; north to N–92; west to U.S. 81; south to N–66; west to N–14; south to I–80; west to U.S. 34; west to N–10; south to the State Line; west to U.S. 283; north to N–23; west to N–47; north to U.S. 30; east to N–14; north to N–52; northwesterly to N–91; west to U.S. 281; north to Wheeler County and including all of Wheeler and Garfield Counties and Loup County east of U.S. 183; east

on N–70 from Wheeler County to N–14; south to N–39; southeast to N–22; east to U.S. 81; southeast to U.S. 30; east to U.S. 73; north to N–51; east to the State Line; and south and west along the State Line to the point of beginning.

Zone 3. The area, excluding Zone 1, north of Zone 2.

Zone 4. The area south of Zone 2.

New Mexico:

Experimental Zone 1. The Central Flyway portion of New Mexico north of Interstate Highway 40 and U.S. Highway 54.

Experimental Zone 2. The remainder of the Central Flyway portion of New Mexico.

Oklahoma:

Zone 1. That portion of northwestern Oklahoma, except the Panhandle, bounded by the following highways: starting at the Texas-Oklahoma border, OK 33 to OK 47, OK 47 to U.S. 183, U.S. 183 to I–40, I–40 to U.S. 177, U.S. 177 to OK 33, OK 33 to I–35, I–35 to U.S. 60, U.S. 60 to U.S. 64, U.S. 64 to OK 132, and OK 132 to the Oklahoma-Kansas state line.

Zone 2. The remainder of the Low Plains.

South Dakota (Low Plains portion).

South Zone. Bon Homme, Yankton and Clay Counties south of S.D. Highway 50; Charles Mix County south and west of a line formed by S.D. Highway 50 from Douglas County to Geddes, Highways CFAS 6198 and FAS 6516 to Lake Andes, and S.D. Highway 50 to Bon Homme County; Gregory County; and Union County south and west of S.D. Highway 50 and Interstate Highway 29.

North Zone. The remainder of the Low Plains.

Geese

Definitions: In the Central Flyway, "geese" includes all species of geese and brant, "dark geese" includes Canada and white-fronted geese and black brant, and "light geese" includes all others.

Outside Dates: September 30, 1989, through January 21, 1990, for dark geese and September 30, 1989, through February 18, 1990 (February 28, 1990, in New Mexico), for light geese.

Possession Limits: Goose possession limits are twice the daily bag limits.

Hunting Seasons: Seasons in States, and independently in described goose management units within States, may be as follows:

Colorado: No more than 95 days with a daily limit of 5 geese that may include no more than 2 dark geese.

Kansas: For dark geese, no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 26 and no more than 1 Canada goose and 1 white-fronted goose during the remainder of the season.

For Light Goose Unit 1 (that area east of U.S. 75 and north of I–70), no more than 100 days with a daily limit of 5.

For Light Goose Unit 2 (the remainder of Kansas), no more than 100 days with a daily limit of 5.

Montana: No more than 95 days with daily limits of 2 dark geese and 3 light geese in Sheridan County and 3 dark geese and 3 light geese in the remainder of the Central Flyway portion of the State.

Nebraska: For Dark Goose Unit 1 (Boyd, Cedar west of U.S. 81, Keya Paha east of U.S. 183, and Knox Counties), no more than 79 days with daily limits of 1 Canada goose and 1 white-fronted goose through November 17 and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For Dark Goose Unit 2 (the remainder of the State east of the following highways starting at the South Dakota line: U.S. 183 to NE 2, NE 2 to U.S. 281, and U.S. 281 to Kansas), no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 19 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For Dark Goose Unit 3 (that part of the State west of Units 1 and 2), no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 19 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For light geese, no more than 100 days with a daily limit of 5.

New Mexico: For dark geese, no more than 95 days with a daily limit of 2.

For light geese in the Rio Grande Valley Unit (the Central Flyway portion of New Mexico in Socorro and Valencia Counties), no more than 107 days with a daily limit of 5 and a possession limit of 10.

For light geese in the remainder of the Central Flyway portion of New Mexico, no more than 95 days with a daily limit of 5.

North Dakota: For dark geese, no more than 72 days with daily limits of 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese through October 29 and no more than 2 dark geese during the remainder of the season.

For light geese, no more than 100 days with a daily limit of 5.

Oklahoma: For dark geese, no more than 72 days with a daily limit of 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

For light geese, no more than 100 days with a daily limit of 5.

South Dakota: For dark geese in the Missouri River Unit (the Counties of Bon Homme, Brule, Buffalo, Campbell, Charles Mix, Corson east of SD Highway 65, Dewey, Gregory, Haakon north of Kirley Road and east of Plum Creek, Hughes, Hyde, Lyman north of Interstate 90 and east of U.S. Highway 183, Potter, Stanley, Sully, Tripp east of U.S. Highway 183, Walworth, and Yankton west of U.S. Highway 81), no more than 79 days with daily limits of 1 Canada goose and 1 white-fronted goose through November 17 and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For dark geese in the remainder of the State, no more than 72 days with a daily limit of 1 Canada goose and 1 white-fronted goose.

For light geese, no more than 100 days with a daily limit of 5.

Texas: West of U.S. 81, no more than 95 days with a daily limit of 5 geese which may include no more than 2 dark geese.

For dark geese east of U.S. 81, no more than 72 days with a daily limit of 1 Canada goose and 1 white-fronted goose.

For light geese east of U.S. 81, no more than 100 days with a daily limit of 5.

Wyoming: No more than 95 days with a daily limit of 2.

Tundra Swans

The following States may issue permits authorizing each permittee to take no more than one tundra swan, subject to guidelines in the current, approved Hunt Plan for the Eastern Population of Tundra Swans, and specified conditions as follows:

Montana: (Central Flyway portion): No more than 500 permits with the season dates concurrent with the season for taking geese.

North Dakota: No more than 1,000 permits with the season dates concurrent with the season for taking light geese.

South Dakota: No more than 500 permits with the season dates concurrent with the season for taking light geese.

Pacific Flyway

The Pacific Flyway includes Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher and Park Counties), Nevada, New Mexico (the

Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington and Wyoming (west of the Continental Divide including the Great Divide Basin).

Ducks, Coots, and Common Moorhens

Outside Dates: Between October 7, 1989, and January 7, 1990.

Hunting Seasons: Seasons may be split into two segments. Concurrent 59-day seasons on ducks (including mergansers), coots, and common moorhens (gallinules) may be selected except as subsequently noted. In the Oregon counties of Morrow and Umatilla and in Washington all areas lying east of the summit of the Cascade Mountains and east of the Big White Salmon River in Klickitat County, the seasons may be an additional 7 days.

Duck Limits: The basic daily bag limit is 4 ducks, including no more than 3 mallards, no more than 1 of which may be a female, 1 pintail, 1 canvasback, and 2 redheads but no more than 1 canvasback and 1 redhead in combination. The possession limit is twice the daily bag limit.

Coot and Common Moorhen (Gallinule) Limits: The daily bag and possession limit of coots and common moorhens is 25 singly or in the aggregate.

California—Waterfowl Zones: Season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona. Season dates for the Northeastern and Southern Zones of California may differ from those in the remainder of the State.

Idaho—Waterfowl Zones: Duck and goose season dates for Zone 1 and Zone 2 may differ. Zone 1 includes all lands and waters within the Fort Hall Indian Reservation and Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; and Power County east of State Highway 37 and State Highway 39. Zone 2 includes the remainder of the State.

Nevada—Clark County Waterfowl Zone: Season dates for Clark County may differ from those in the remainder of Nevada.

Geese (including Brant)

Outside dates, season lengths and limits on geese (including brant): Seasons may be split into two segments. Between September 30, 1989, and January 21, 1990, a 93-day season on geese (except brant in Washington, Oregon, and California) may be selected, except as subsequently noted. The basic daily bag and possession limit is 6, provided that the daily bag limit includes no more than 3 white geese (snow, including blue, and Ross' geese) and 3 dark geese (all other species of geese). In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively. Washington, Oregon, and California may select an open season for brant with daily bag and possession limits of 2 and 4 brant, respectively. Brant seasons may not exceed 16-consecutive days in Washington and Oregon and 30-consecutive days in California.

Aleutian Canada goose closure: There will be no open season on Aleutian Canada geese. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

California, Oregon, Washington—Cackling Canada goose closure: There will be no open season on cackling Canada geese in California, Oregon, and Washington.

California Canada goose and dark goose closures: Three areas in California, described as follows, are restricted in the hunting of certain geese

(1) In the counties of Del Norte and Humboldt there will be no open season for Canada geese.

(2) In the Sacramento Valley in that area bounded by a line beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes Arbuckle road to Grimes on the Sacramento River; then southerly on the Sacramento River to the Tisdale Bypass where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, there will be no open seaon for Canada geese. In this area, the season on white-fronted geese must end on or before November 30, 1989.

(3) In the San Joaquin Valley in that area bounded by a line beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate Highway 5; then southerly on Interstate Highway 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly on State Highway 99 to the point of beginning; the hunting season for Canada geese will close no later than November 23, 1989.

California (Northeastern Zone)—geese: In the Northeastern Zone of California the season may be from October 14, 1989, to January 14, 1990, except that white-fronted geese may be taken only during October 14 to November 5, 1989. Limits will be 3 geese per day and 6 in possession, of which not more than 1 white-fronted goose or 2 Canada geese shall be in the daily limit and not more than 2 white-fronted geese and 4 Canada geese shall be in possession.

California (Balance of the State Zone)—geese: In the Balance of the State Zone the season may be from October 28, 1989, through January 14, 1990, except that white-fronted geese may be taken only during October 28, 1989, to December 31, 1989. Limits shall be 3 geese per day and in possession, of which not more than 1 may be a dark goose. The dark goose limits may be expanded to 2 provided that they are Canada geese (except Aleutian and cackling Canada geese for which the season is closed).

Western Oregon: In those portions of Coos and Curry Counties lying west of U.S. Highway 101 and that portion of Western Oregon west and north of a line starting at Oregon-Washington State line on the Columbia River; south on Interstate Highway 5 to its junction with State Highway 22 at Salem; east on State Highway 22 to the Stayton cutoff; south on the Stayton cutoff through Stayton and straight south to the Santiam River; west (downstream) on the Santiam River to Interstate Highway 5; south on Interstate Highway 5 to State Highway 126 at Eugene; west on State Highway 126 to State Highway 36; north on State Highway 36 to Forest Road 5070 at Brickerville; west and south on Forest Road 5070 to State Highway 126; west on State Highway 126 and ending at the Oregon coast, except for designated areas, there shall be no open season on Canada geese. In the remainder of Western Oregon, the season and limits shall be the same as those for the Pacific Flyway, except the seasons in the designated area must end upon attainment of their individual quotas which collectively equal 210 dusky Canada geese. Hunting of Canada geese in those designated areas shall only be by hunters possesssing a state-issued permit authorizing them to do so.

Oregon (Lake and Klamath Counties)—geese: In the Oregon counties of Lake and Klamath the season on white-fronted geese will not open before November 1.

Washington and Oregon (Columbia Basin Portions)—geese: In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa and Wasco, the goose season may be an additional 7 days.

Western Washington: In Clark, Cowlitz, Wahkiakum, and Pacific Counties, except for areas to be designated by the State, there shall be no open season on Canada geese. For designated areas the seasons must end upon attainment of individual quotas which collectively will equal 90 dusky Canada geese. Hunting of Canada geese in those designated areas shall only be by hunters possessing a state-issued permit authorizing them to do so.

Idaho, Oregon and Montana—Pacific Population of Canada geese: In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties); in the Oregon counties of Baker and Malheur; and in Montana (Pacific Flyway portion west of the Continental Divide), the daily bag and possession limits are 2 and 4 Canada geese, respectively; and the season for Canada geese may not extend beyond January 7, 1990.

Montana and Wyoming—Rocky Mountain Population of Canada Geese: In Montana (Pacific Flyway portion east of the Continental Divide) and Wyoming the season may not extend beyond January 14, 1990. In Lincoln, Sweetwater and Sublette Counties, Wyoming, the combined special sandhill crane-Canada goose seasons and the regular season shall not exceed 93 days.

Idaho, Colorado and Utah: In that portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border; in Colorado; and in Utah, except Washington County, the daily bag and possession limits are 2 and 4 Canada geese, respectively, and the season for Canada geese may be no more than 88 days and may not extend beyond January 14, 1990.

Nevada: Nevada may designate season dates on geese in Clark County and in Elko County and that portion of White Pine County within Ruby Lake National Wildlife Refuge differing from those in the remainder of the State. In Clark County the season on Canada geese may be no more than 86 days. Except for Clark County the daily bag and possession limits are 2 and 4 Canada geese, respectively. In Clark County the daily bag and possession limits are 2 Canada geese.

Arizona, California, Utah and New Mexico: In California, the Colorado River Zone where the season must be the same as that selected by Arizona and the Southern Zone; in Arizona; in New Mexico; and in Washington County, Utah; the season for Canada geese may be no more than 88 days. The daily bag and possession limit is 2 Canada geese except in that portion of California Department of Fish and Game District 22 within the Southern Zone (i.e. Imperial Valley) where the daily bag and possession limits for Canada geese are 1 and 2, respectively.

Tundra Swans

In Utah, Nevada and Montana, an open season for tundra swans may be selected under the following conditions: (a) Between September 30, 1989, and January 21, 1990, a 93-day season may be selected, and seasons may be split into two segments; (b) appropriate State agency must issue permits and obtain harvest and hunter participation data; (c) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 tundra swan; (d) in Nevada, no more than 650 permits may be issued, authorizing each permittee to take 1 tundra swan in either Churchill, Lyon, or Pershing Counties; (e) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 tundra swan in either Teton, Cascade, Hill, Liberty, Toole or Pondera County.

Common Snipe

Outside dates: Between September 1, 1989, and February 28, 1990.

Hunting Seasons and Daily Bag and Possession Limits: Seasons may not exceed 107 days, but may be split into 2 segments. Bag and possession limits are 8 and 16, respectively.

Special Falconry Frameworks

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length for the extended season, regular season, and any special or experimental seasons shall not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1, 1989 and March 10, 1990.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended season.

Regular Seasons: General hunting regulations, including seasons and hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular season bag and possession limits do not apply to falconry.

Note.—Total season length for all hunting methods combined shall not exceed 107 days for any species or group of species in one geographical area. The extension of this framework to include the period September 1, 1989–March 10, 1990, and the option to split the extended falconry season into a maximum of 3 segments are considered tentative, and will be evaluated in cooperation with States offering such extensions after a period of several years.

Dated: September 7, 1989.

John F. Turner,

Director.

[FR Doc. 89–22057 Filed 9–18–89; 8:45 am]

BILLING CODE 4310–55–M

Federal Register

Tuesday
September 19, 1989

Part VI

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Revisions to Rubber Tire Manufacturing Industry; Final Rule and Petition for Reconsideration

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3608-2]

Standards of Performance for New Stationary Sources; Revisions to Rubber Tire Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and petition for reconsideration.

SUMMARY: On February 14, 1989 (54 FR 6850), EPA proposed minor revisions to standards of performance for the rubber tire manufacturing industry. The revisions to the new source performance standards (NSPS) were proposed as a result of a petition for reconsideration of the NSPS filed by the Rubber Manufacturers Association (RMA), et al. This action promulgates final revisions to the NSPS. The effect of this action is to grant the petitioners' requests for revision of: (1) Changes in cutoff formats between proposal and promulgation; (2) requirements for determining capture efficiency using a temporary enclosure; and (3) requirements for monthly tests for green tire sprays containing low quantities of volatile organic compounds (VOC).

EFFECTIVE DATE: September 19, 1989. Under section 307(b)(1) of the Clean Air Act, judicial review of this NSPS is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* A docket, number A–80–9, containing information considered by EPA in the development of the promulgated standards and the Petition for Reconsideration to which this notice is responding, is available for public inspection between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section (LE–131), Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For further information and interpretations of applicability, compliance requirements, and reporting aspects of the revised standards, contact the appropriate Regional, State, or local office contact as listed in 40 CFR 60.4. For further information on the background for the promulgated revised standards, contact Ms. Shirley Tabler, Standards Development Branch, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5256.

SUPPLEMENTARY INFORMATION:

I. Background

Standards of performance for the rubber tire manufacturing industry were promulgated in the Federal Register on September 15, 1987 (52 FR 34868). The promulgated standards limit VOC emissions from new, modified, or reconstructed facilities. The VOC emissions from the rubber tire industry are caused primarily by application of materials which contain VOC to different components of a tire during the manufacturing process. The affected facilities are each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation.

The control technology for these facilities consists of low solvent usage or an emission reduction system.

On November 12, 1987, the RMA (a national trade association representing several tire manufacturers) filed with EPA a petition for reconsideration of the Standards of Performance for New Stationary Sources in the Rubber Tire Manufacturing Industry. On November 12 and 13, 1987, the RMA and the Firestone Tire and Rubber Company, respectively, filed with the U.S. Court of Appeals for the District of Columbia Circuit petitions for review of the NSPS under section 307(b) of the Clean Air Act. Additionally, on December 10, 1987, Michelin Tire Corporation filed a Motion for Leave to Intervene in the review of the final standards.

In summary, the petitioners requested review of: (1) The format of the VOC use cutoffs established in the promulgated NSPS; (2) potential expansion in the coverage of the regulation; (3) requirements for determining capture efficiency using a temporary enclosure; and (4) requirements for monthly tests for green tire sprays containing low quantities of VOC. The revisions proposed on February 14, 1989, were in regard to items (1), (3), and (4); however, no revisions to the NSPS were made with regard to coverage of the NSPS. A detailed discussion of the issues presented in the petitions for review and EPA's response to the issues is contained in the preamble for the proposed revisions (54 FR 6850–6852).

II. The Promulgated Revisions

The proposed revisions to the NSPS were published in the Federal Register on February 14, 1989 (54 FR 6850). A public hearing was scheduled on March 21, 1989. However, there were no requests for a hearing. The public comment period lasted from February 14, 1989 to April 21, 1989. One comment letter was received from RMA. The RMA stated that the proposed revisions constitute an appropriate response to issues raised in the petitions. In addition to the proposed revisions, RMA suggested one minor change be made with regard to the use of water-based tread end cements. Specifically, the association requested EPA to delete the requirement for monthly performance tests for tread end cementing operations which use spray formulations containing less than 1.0 percent by weight of VOC. According to RMA, deleting this requirement would encourage the use of low-VOC materials since these materials are not currently in widespread use.

The EPA has considered RMA's requested revision and has decided to make this change. The change would be consistent with the proposed change for green tire spraying operations which use spray formulations containing less than 1.0 percent by weight of VOC. Also, EPA would like to encourage waste minimization through the use of water-based materials. Therefore, the promulgated revisions waive the requirement for monthly performance tests for both tread end cementing operations and green tire spraying operations which use spray formulations containing less than 1.0 percent by weight of VOC. The owner or operator of these operations, however, must submit annually formulation data or the results of Method 24 analysis to verify the VOC content of the spray in lieu of conducting monthly performance tests. No other changes have been made to the revisions proposed on February 14, 1989. The promulgated revisions allow affected facilities (each undertread cementing operation and each sidewall cementing operation) that commenced construction, modification, or reconstruction prior to the promulgation date of the NSPS (September 15, 1987) the option of complying with either the proposed or final cutoff (25 g/tire or total (uncontrolled) monthly VOC usage). Owners or operators of these affected facilities must decide within two months after promulgation of these revisions whether they will elect to use

the alternative cutoff. The promulgated revisions also provide an alternative procedure for demonstration of capture efficiency through the use of a liquid-to-gas material balance in cases where only a single VOC (solvent) is used.

III. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file because material is added through the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated amendments to the NSPS and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review (see Clean Air Act, section 307(d)(7)(A), 42 U.S.C. 7607(d)(7)(A)).

B. Paperwork Reduction Act

Changes to the information requirements in this rule have been approved by the Office of Management and Budget (OMB) Clearance No. 2060–0156 under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been prepared by EPA (ICR No. 1158) and a copy may be obtained by writing Sandy Farmer, Information Policy Branch, EPA, 401 M Street SW., (PM–223), Washington, DC 20460 or by calling (202) 382–2740.

Public reporting burden for this collection of information is estimated to decrease 20 to 35 hours annually for manufacturers employing tread end cementing and green tire spray operations using water-based sprays containing less than 1.0 percent by weight of VOC.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U. S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Paperwork Reduction Project (2060–0156), Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

C. Executive Order 12291

This rulemaking was submitted to OMB for review as required by Executive Order 12291. Any written comments from OMB to EPA and any EPA response to those comments are included in Docket No. A–80–9. This docket is available for public inspection at EPA's Air Docket Section that is listed under the **ADDRESSES** section of this notice.

D. Regulatory Flexibility Act Compliance

The Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)) requires that adverse effects of all Federal regulations upon small businesses be identified. As stated in the preamble to the final NSPS (52 FR 34874, September 15, 1987), it is unlikely that any new plant would be considered a small entity. Therefore, it is unlikely that this rulemaking, which promulgates minor revisions to the NSPS, would adversely affect any small businesses.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that these promulgated revisions to the NSPS will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping, Rubber tire manufacturing (SIC 3011).

Dated: September 12, 1989.

William K. Reilly,

Administrator.

For reasons set out in the preamble, 40 CFR Part 60, Subpart BBB, is amended as follows:

PART 60—[AMENDED]

1. The authority citation for Part 60 continues to read as follows:

Authority: Sec. 101, 111, 114, 116, 301 of the Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7416, and 7601).

2. Section 60.540 is amended by revising paragraphs (a) and (b) to read as follows:

§ 60.540 Applicability and designation of affected facilities.

(a) The provisions of this subpart, except as provided in paragraph (b) of this section, apply to each of the following affected facilities in rubber tire manufacturing plants that commence construction, modification, or reconstruction after January 20, 1983: each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation.

(b) The owner or operator of each undertread cementing operation and each sidewall cementing operation in rubber tire manufacturing plants that commenced construction, modification, or reconstruction after January 20, 1983, and before September 15, 1987, shall have the option of complying with the alternate provisions in § 60.542a. This election shall be irreversible. The alternate provisions in § 60.542a do not apply to any undertread cementing operation or sidewall cementing operation that is modified or reconstructed after September 15, 1987. The affected facilities in this paragraph are subject to all applicable provisions of this subpart.

* * * * *

3. Section 60.542a is added to read as follows:

§ 60.542a Alternate standard for volatile organic compounds.

(a) On and after the date on which the initial performance test, required by § 60.8, is completed, but no later than 180 days after September 19, 1989, each owner or operator subject to the provisions in § 60.540(b) shall not cause to be discharged into the atmosphere more than: 25 grams of VOC per tire processed for each month if the operation uses 25 grams or less of VOC per tire processed and does not employ a VOC emission reduction system.

(b) (Reserved)

4. In § 60.543, the second sentences of paragraphs (b)(1) and (b)(2) are revised; paragraphs (b)(4), (f)(2)(iv), and (n) are added; and paragraphs (d) and (f)(2) introductory text are revised to read as follows:

§ 60.543 Performance test and compliance provisions.

* * * * *

(b) * * *

(1) * * * The owner or operator of an affected facility shall thereafter conduct a performance test each month, except as described under paragraphs (b)(4), (g)(1), and (j) of this section. * * *

(2) * * * The performance test shall be conducted in accordance with the procedures described under paragraphs (f)(2) (i) through (iv) of this section.

* * * * *

(4) The owner or operator of each tread end cementing operation and each green tire spraying operation using only water-based sprays (inside and/or outside) containing less than 1.0 percent, by weight, of VOC is not required to

conduct a monthly performance test as described in paragraph (d) of this section. In lieu of conducting a monthly performance test, the owner or operator of each tread end cementing operation and each green tire spraying operation shall submit formulation data or the results of Method 24 analysis annually to verify the VOC content of each tread end cement and each green tire spray material, provided the spraying formulation has not changed during the previous 12 months. If the spray material formulation changes, formulation data or Method 24 analysis of the new spray shall be conducted to determine the VOC content of the spray and reported within 30 days as required under § 60.546(j).

* * * * *

(d) For each tread end cementing operation and each green tire spraying operation where water-based cements or sprays containing 1.0 percent, by weight, of VOC or more are used (inside and/or outside) that do not use a VOC emission reduction system, the owner or operator shall use the following procedure to determine compliance with the g/tire limit specified under § 60.542 (a)(3), (a)(5)(i), (a)(5)(ii), (a)(7)(i), and (a)(7)(ii).

* * * * *

(f) * * *

(2) Calculate the mass of VOC emitted per tire cemented at the affected facility for the month (N) or mass of VOC emitted per bead cemented for the affected facility for the month (N_b):

$$N = G(1-R)$$
$$N_b = G_b(1-R)$$

For the initial performance test, the overall reduction efficiency (R) shall be determined as prescribed under paragraphs (f)(2) (i) through (iv) of this section. After the initial performance test, the owner or operator may use the most recently determined overall reduction efficiency (R) for the performance test. No monthly performance tests are required. The performance test shall be repeated during conditions described under paragraph (b)(2) of this section.

* * * * *

(iv) The owner or operator of an affected facility shall have the option of substituting the following procedure as an acceptable alternative to the requirements prescribed under paragraph (f)(2)(i) of this section. This alternative procedure is acceptable only in cases where a single VOC is used and is present in the capture system. The average capture efficiency value derived from a minimum of three runs shall constitute a test.

(A) For each run, "i," measure the mass of the material containing a single VOC used. This measurement shall be made using a scale that has both a calibration and a readability to within 1 percent of the mass used during the run. This measurement may be made by filling the direct supply reservoir (e.g., trough, tray, or drum that is integral to the operation) and related application equipment (e.g., rollers, pumps, hoses) to a marked level at the start of the run and then refilling to the same mark from a more easily weighed container (e.g., separate supply drum) at the end of the run. The change in mass of the supply drum would equal the mass of material used from the direct supply reservoir. Alternatively, this measurement may be made by weighing the direct supply reservoir at the start and end of the run or by weighing the direct supply reservoir and related application equipment at the start and end of the run. The change in mass would equal the mass of the material used in the run. If only the direct supply reservoir is weighed, the amount of material in or on the related application equipment must be the same at the start and end of the run. All additions of VOC containing material made to the direct supply reservoir during a run must be properly accounted for in determining the mass of material used during that run.

(B) For each run, "i," measure the mass of the material containing a single VOC which is present in the direct supply reservoir and related application equipment at the start of the run, unless the ending weight fraction VOC in the material is greater than or equal to 98.5 percent of the starting weight fraction VOC in the material, in which case, this measurement is not required. This measurement may be made directly by emptying the direct supply reservoir and related application equipment and then filling them to a marked level from an easily weighed container (e.g. separate supply drum). The change in mass of the supply drum would equal the mass of material in the filled direct supply reservoir and related application equipment. Alternatively, this measurement may be made by weighing the direct supply reservoir and related application equipment at the start of the run and subtracting the mass of the empty direct supply reservoir and related application equipment (tare weight).

(C) For each run, "i," the starting weight fraction VOC in the material shall be determined by Method 24 analysis of a sample taken from the direct supply reservoir at the beginning of the run.

(D) For each run, "i," the ending weight fraction VOC in the material shall be determined by Method 24 analysis of a sample taken from the direct supply reservoir at the end of the run.

(E) For each run, "i," in which the ending weight fraction VOC in the material is greater than or equal to 98.5 percent of the starting weight fraction VOC in the material, calculate the mass of the single VOC used (Mi) by multiplying the mass of the material used in the run by the starting weight fraction VOC of the material used in the run.

(F) For each run, "i," in which the ending weight fraction VOC in the material is less than 98.5 percent of the starting weight fraction VOC in the material, calculate the mass of the single VOC used (M_i) as follows:

(*1*) Calculate the mass of VOC present in the direct supply reservoir and related application equipment at the start of the run by multiplying the mass of material in the direct supply reservoir and related application equipment at the start of the run by the starting weight fraction VOC in the material for that run.

(*2*) Calculate the mass of VOC present in the direct supply reservoir and related application equipment at the end of the run by multiplying the mass of material in the direct supply reservoir and related application equipment at the end of the run by the ending weight fraction VOC in the material for that run. The mass of material in the direct supply reservoir and related application equipment at the end of the run shall be calculated by subtracting the mass of material used in the run from the mass of material in the direct supply reservoir and related application equipment at the start of the run.

(*3*) The mass of the single VOC used (M_i) equals the mass of VOC present in the direct supply reservoir and related application equipment at the start of the run minus the mass of VOC present in the direct supply reservoir and related application equipment at the end of the run.

(G) If Method 25A is used to determine the concentration of the single VOC in the capture system, then calculate the capture efficiency (FC_i) for each run, "i," as follows:

$$FC_i = \frac{C_i \quad \frac{W}{V} \quad Q_i}{(M_i)\ (10^6)}$$

Where: C_i = Average concentration of the single VOC in the capture system during run "i" (parts per million by volume) corrected for background VOC (see § 60.547(a)(5)).

W = Molecular weight of the single VOC, expressed as mg per mg-mole.

$V = 2.405 \times 10^{-5}$ m³/mg-mole. This is the volume occupied by one mg-mole of ideal gas at standard conditions (20°C, 1 atmosphere) on a wet basis.

Q_i = Volumetric flow in m³ in the capture system during run "i" adjusted to standard conditions (20°C, 1 atmosphere) on a wet basis (see § 60.547(a)(5)).

10^6 = ppm per unity.

M_i = Mass in mg of the single VOC used during run "i.".

(H) If Method 25 is used to determine the concentration of the single VOC in the capture system, then calculate the capture efficiency (FC_i) for each run, "i," as follows:

$$FC_i = \frac{\frac{C_i}{(NC)(10^6)} \quad \frac{(W)(Q_i)}{(V)}}{M_i}$$

Where: C_i = Average concentration of the single VOC in the capture system during run "i" (parts per million, as carbon, by volume) corrected for background VOC (see § 60.547(a)(5)).

W = Molecular weight of the single VOC, expressed as mg per mg-mole.

$V = 2.405 \times 10^{-5}$ m³/mg-mole. This is the volume occupied by one mg-mole of ideal gas at standard conditions (20°C, 1 atmosphere) on a wet basis.

Q_i = Volumetric flow in m³ in the capture system during run "i" adjusted to standard conditions (20°C, 1 atmosphere) on a dry basis (see § 60.547(a)(5)).

10^6 = ppm per unity.

M_i = Mass in mg of the single VOC used during run "i".

NC = Number of carbon atoms in one molecule of the single VOC.

(I) Calculate the average capture efficiency value, F_c as follows:

$$F_c = \frac{\sum_{i=1}^{n} FC_i}{n}$$

Where: "n" equals the number of runs made in the test ($n \geq 3$). In cases where an alternative procedure in this paragraph is used, the requirements in paragraphs (f)(2) (ii) and (iii) of this section remain unchanged.

* * * * *

(n) For each undertread cementing operation and each sidewall cementing operation that does not use a VOC emission reduction system, the owner or operator shall use the following procedure to determine compliance with the 25 g/tire limit specified in § 60.542a:

(1) Calculate the total mass of VOC (M_o) used at the affected facility for the month by the following procedure.

(i) For each affected facility for which cement is delivered in batch or via a distribution system which serves only that affected facility:

$$M_O = \sum_{i=1}^{n} L_{ci} D_{ci} W_{oi}$$

Where: "n" equals the number of different cements or sprays used during the month.

(ii) For each affected facility for which cement is delivered via a common distribution system which also serves other affected or existing facilities.

(A) Calculate the total mass (M) of VOC used for all of the facilities served by the common distribution system for the month:

$$M = \sum_{i=1}^{n} L_{ci} D_{ci} W_{oi}$$

Where: "n" equals the number of different cements or sprays used during the month.

(B) Determine the fraction (F_o) of "M" used by the affected facility by comparing the production records and process specifications for the material cemented at the affected facility for the month to the production records and process specifications for the material cemented at all other facilities served by the common distribution system for the month or by another procedure acceptable to the Administrator.

(C) Calculate the total monthly mass of VOC(M_o) used at the affected facility:

$$M_o = MF_o$$

(2) Determine the total number of tires (T_o) processed at the affected facility for the month by the following procedure.

(i) For undertread cementing, T_o equals the number of tread or combined tread/sidewall components which receive an application of undertread cement.

(ii) For sidewall cementing, T_o equals the number of sidewall components which receive an application of sidewall cement, divided by 2.

(3) Calculate the mass of VOC used per tire processed (G) by the affected facility for the month:

$$G = \frac{M_o}{T_o}$$

(4) Calculate the mass of VOC emitted per tire processed (N) for the affected facility for the month:

$$N = G$$

(5) Where the value of the mass of VOC emitted per tire processed (N) is less than or equal to the 25 g/tire limit specified under § 60.542a, the affected facility is in compliance.

* * * * *

5. Section 60.545 is amended by adding paragraph (f) to read as follows:

§ 60.545 Recordkeeping requirements.

* * * * *

(f) Each owner or operator of a tread end cementing operation and green tire spraying operation using water-based cements or sprays containing less than 1.0 percent by weight of VOC, as specified under § 60.543(B)(4), shall maintain records of formulation data or the results of Method 24 analysis conducted to verify the VOC content of the spray.

6. Section 60.546 is amended by adding paragraphs (c)(7), (i), and (j) to read as follows:

§ 60.546 Reporting requirements.

* * * * *

(c) * * *

(7) For each affected facility that elects to comply with the alternate limit specified under § 60.542a: The mass of VOC used (M_o), the number of tires processed (T_o), and the mass of VOC emitted per tire processed (N).

* * * * *

(i) The owner or operator of each undertread cementing operation and each sidewall cementing operation who qualifies for the alternate provisions as described in § 60.542a, shall furnish the Administrator written notification of the

election no less than 60 days after September 19, 1989.

(j) The owner or operator of each tread end cementing operation and each green tire spraying (inside and/or outside) operation using water-based sprays containing less than 1.0 percent, by weight, of VOC as described in § 60.543(b)(1) shall furnish the Administrator, within 60 days initially and annually thereafter, formulation data or Method 24 results to verify the VOC content of the water-based sprays in use. If the spray formulation changes before the end of the 12-month period, formulation data or Method 24 results to verify the VOC content of the spray shall be reported within 30 days.

* * * * *

7. Section 60.547 is amended by adding paragraph (a)(5) to read as follows:

§ 60.547 Test methods and procedures.

(a) * * *

(5) Method 25 or Method 25A for determination of the VOC concentration in a capture system prior to a control device when only a single VOC is present (see § 60.543 (f)(2)(iv)(C) and (f)(2)(iv)(H)). The owner or operator shall notify the Administrator 30 days in advance of any test by either Method 25 or Method 25A. Method 1 shall be used to select the sampling site and the sampling point shall be the centroid of the duct or at a point no closer to the walls than 1 meter. Method 2, 2A, 2C, or 2D, as appropriate, shall be used as the test method for the concurrent determination of gas flow rate in the capture system.

(i) For Method 25, the sampling time for each run shall be at least 1 hour. For each run, a concurrent sample shall be taken immediately upwind of the application area to determine the background VOC concentration of air drawn into the capture system. Subtract this reading from the reading obtained in the capture system for that run. The minimum sample volume shall be 0.003 dry standard cubic meter (dscm) except that shorter sampling times or smaller volumes, when necessitated by process variable or other factors, may be approved by the Administrator. Use Method 3 to determine the moisture content of the stack gas.

(ii) For Method 25A, the sampling time for each run shall be at least 1 hour. Instrument calibration shall be performed by the procedure given in Method 25A using the single VOC present in the capture system. A different calibration gas may be used if the results are corrected using an experimentally determined response factor comparing the alternative calibration gas to the single VOC used in the process. After the instrument has been calibrated, determine the background VOC concentration of the air drawn into the capture system immediately upwind of the application area for each run. The instrument does not need to be recalibrated for the background measurement. Subtract this reading from the reading obtained in the capture system for that run. The Method 25A results shall only be used in the alternative procedure for determination of capture efficiency described under § 60.543(f)(2)(iv)(G).

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[FR Doc. 89-22071 Filed 9-18-89; 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday,
September 19, 1989

Part VII

The President

Proclamation 6022—Citizenship Day and Constitution Week, 1989

Part VII

The President

Federal Register
Vol. 54, No. 180
Tuesday, September 19, 1989

Presidential Documents

Title 3—

The President

Proclamation 6022 of September 15, 1989

Citizenship Day and Constitution Week, 1989

By the President of the United States of America

A Proclamation

Two hundred years ago, the great experiment in free and democratic government launched by our Nation's Founding Fathers was just beginning. Our Constitution—the oldest written national constitution still extant today—had been carefully drafted by 55 men gathered in Philadelphia during the long, hot summer of 1787. Today, we rejoice because the system of government it established has not only endured, but prospered. Indeed, the great document we celebrate this week changed forever the course of human history.

In 1787, the future of the United States was still uncertain. However, it was very clear that the Articles of Confederation—which had loosely assembled the 13 States in a "league of friendship"—needed to be revised. After our country's independence was formally recognized by the Treaty of Paris in 1783, the cause that once united the 13 colonies had been won—and they fell to contentiousness and discord.

The Congress of the Confederation, then the central government of the United States, was nearly bankrupt. It had no authority to impose taxes and no power to collect them. The States were printing their own money, which was often worth little inside their borders and nothing beyond them. Engaged in disputes over territorial boundaries and the use of each other's ports and roadways, the former colonies were on the verge of splitting into 13 separate, wholly sovereign—perhaps even hostile—nations. Their lack of unity left the young country highly vulnerable to the threats of European powers.

A number of American leaders at the time, including Alexander Hamilton and James Madison, called for a convention of the States to reform the Articles of Confederation. George Washington, frustrated by the Congress' inability to provide for the Continental Army, echoed their concerns when he sharply noted that "Influence is no government." Once relations between several of the States reached a crisis point, the Congress of the Confederation finally agreed to a Federal Convention.

Through months of intense debate and skillful compromise, the delegates to the Federal Convention carefully shaped our Constitution. Knowing the danger of relying upon human wisdom alone in forming a free and just government, they often prayed for Divine guidance as they defined the powers of the Congress and the President; established the manner in which legislators and the President would be elected; outlined the Judicial system; and asserted States' rights. The Founding Fathers also provided for amendment, as well as ratification, of the Constitution.

More than 200 years after it was written, our Constitution is a glorious testament to the wisdom and foresight of its Framers. Today, we celebrate the success of their labors. The Constitution, and the Bill of Rights later added to it, has been a blessing to every American citizen and a light to the world.

All Americans have an obligation to ensure that this shining experiment in self-government continues to succeed. As citizens of a free Nation, each of us has both the right and the responsibility to become educated and informed; to vote for those who represent us; and to participate at all levels of government.

This week, let us give thanks for the freedom we so enjoy, and let us pause to learn more about our rights and duties as American citizens. For, as President Washington stated in his first Annual Message to the Congress:

> Knowledge is in every country the surest basis of public happiness. . . . To the security of a free Constitution it contributes in various ways—by convincing those who are intrusted with the public administration that every valuable end of government is best answered by the enlightened confidence of the people, and by teaching the people themselves to know and value their own rights . . . to distinguish between oppression and the necessary exercise of authority . . . to discriminate the spirit of liberty from that of licentiousness—cherishing the first, avoiding the last—and uniting a speedy but temperate vigiliance against encroachments, with an inviolable respect to the laws.

The Congress, by joint resolution of February 29, 1952 (36 U.S.C. 153), designated September 17 as "Citizenship Day" in commemoration of the signing of the Constitution and in recognition of all who, by birth or by naturalization, have attained the status of citizenship, and authorized the President to issue annually a proclamation calling upon officials of the government to display the flag on all government buildings on that day. Also, by joint resolution of August 2, 1956 (36 U.S.C. 159), the Congress designated the week beginning September 17 and ending September 23 of each year as "Constitution Week" in recognition of the historic importance of the Constitution and the significant role it plays in our lives today.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim September 17, 1989, as Citizenship Day and call upon appropriate government officials to display the flag of the United States on all government buildings. I urge Federal, State, and local officials, as well as leaders of civic, social, and educational organizations, to conduct ceremonies and programs to commemorate the occasion.

Furthermore, I proclaim the week beginning September 17 and ending September 23, 1989, as Constitution Week, and I urge all Americans to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 89-22280
Filed 9-18-89; 11:25 am]
Billing code 3195-01-M

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